

IN THE SENATE

SENATE BILL NO. 1330, As Amended

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO ARCHAIC STATUTORY LANGUAGE; AMENDING SECTION 5-334, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 9-205, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 9-340C, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 10-1204, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 15-5-401, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 15-5-407, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 18-6101, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 20-225, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 20-508, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 32-106, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 33-124, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 33-403A, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-1002, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-1007, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 33-1404, IDAHO CODE, TO REVISE TERMINOLOGY AND TO PROVIDE A CORRECT CITATION; AMENDING SECTION 33-2001, IDAHO CODE, TO ALPHABETIZE TERMS, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-4407, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 33-4604, IDAHO CODE, TO REVISE A CITATION, TO DELETE REFERENCE TO AN ACT AND TO REVISE TERMINOLOGY; AMENDING SECTION 34-1108, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 34-2427, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 38-1601, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-1202, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-1204, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-1301, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-1402, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-4602, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-4604, IDAHO CODE, TO ALPHABETIZE TERMS, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-4803, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-5008, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-5102, IDAHO CODE, TO ALPHABETIZE TERMS AND TO REVISE TERMINOLOGY; AMENDING SECTION 40-1335, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 41-2139, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 41-2203, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-3436, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 49-114, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 50-460, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 54-903, IDAHO CODE, TO REMOVE REDUNDANT LANGUAGE; AMENDING SECTION 54-935, IDAHO CODE, TO REMOVE REDUNDANT LANGUAGE; AMENDING SECTION 54-1841, IDAHO CODE, TO REMOVE REDUNDANT LANGUAGE; AMENDING SECTION 54-3401, IDAHO

CODE, TO REMOVE REDUNDANT LANGUAGE; AMENDING SECTION 56-101, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 56-108, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 56-113, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 56-203, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 56-218A, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 56-255, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING THE HEADING FOR CHAPTER 7, TITLE 56, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 56-701, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 56-701A, IDAHO CODE, TO REVISE TERMINOLOGY AND TO REMOVE REDUNDANT LANGUAGE; AMENDING SECTION 56-702, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 56-703, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 56-707, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 56-802, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 56-1004A, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 63-701, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 66-329, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 66-401, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 66-402, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 66-408, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 67-2319, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 67-6530, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 67-6531, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-6532, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-6901, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 67-6902, IDAHO CODE, TO ALPHABETIZE TERMS AND TO REVISE TERMINOLOGY; AMENDING SECTION 67-6903, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 68-1301, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 68-1405, IDAHO CODE, TO REMOVE REDUNDANT LANGUAGE; AMENDING SECTION 71-241, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 72-430, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 72-1316A, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 73-114, IDAHO CODE, TO ALPHABETIZE TERMS, TO DEFINE A TERM AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING CHAPTER 1, TITLE 73, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 73-114A, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT ON RESPECTFUL LANGUAGE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 5-334, Idaho Code, be, and the same is hereby amended to read as follows:

5-334. ACT OR OMISSION PREVENTING ABORTION NOT ACTIONABLE. (1) A cause of action shall not arise, and damages shall not be awarded, on behalf of any person, based on the claim that but for the act or omission of another, a person would not have been permitted to have been born alive but would have been aborted.

(2) The provisions of this section shall not preclude causes of action based on claims that, but for a wrongful act or omission, fertilization would not have occurred, maternal death would not have occurred or ~~handicap~~

1 disability, disease, defect or deficiency of an individual prior to birth
2 would have been prevented, cured or ameliorated in a manner that preserved
3 the health and life of the affected individual.

4 SECTION 2. That Section 9-205, Idaho Code, be, and the same is hereby
5 amended to read as follows:

6 9-205. INTERPRETERS. In any civil or criminal action in which any
7 witness or a party does not understand or speak the English language, or who
8 has a physical ~~handicap~~ disability which prevents him from fully hearing
9 or speaking the English language, then the court shall appoint a qualified
10 interpreter to interpret the proceedings to and the testimony of such
11 witness or party. Upon appointment of such interpreter, the court shall
12 cause to have the interpreter served with a subpoena as other witnesses,
13 and such interpreter shall be sworn to accurately and fully interpret
14 the testimony given at the hearing or trial to the best of his ability
15 before assuming his duties as an interpreter. The court shall determine a
16 reasonable fee for all such interpreter services which shall be paid out of
17 the district court fund.

18 SECTION 3. That Section 9-340C, Idaho Code, be, and the same is hereby
19 amended to read as follows:

20 9-340C. RECORDS EXEMPT FROM DISCLOSURE -- PERSONNEL RECORDS, PERSONAL
21 INFORMATION, HEALTH RECORDS, PROFESSIONAL DISCIPLINE. The following
22 records are exempt from disclosure:

23 (1) Except as provided in this subsection, all personnel records
24 of a current or former public official other than the public official's
25 public service or employment history, classification, pay grade and step,
26 longevity, gross salary and salary history, status, workplace and employing
27 agency. All other personnel information relating to a public employee
28 or applicant including, but not limited to, information regarding sex,
29 race, marital status, birth date, home address and telephone number,
30 applications, testing and scoring materials, grievances, correspondence
31 and performance evaluations, shall not be disclosed to the public without
32 the employee's or applicant's written consent. Names of applicants to
33 classified or merit system positions shall not be disclosed to the public
34 without the applicant's written consent. Disclosure of names as part of a
35 background check is permitted. Names of the five (5) final applicants to all
36 other positions shall be available to the public. If such group is less than
37 five (5) finalists, then the entire list of applicants shall be available to
38 the public. A public official or authorized representative may inspect and
39 copy his personnel records, except for material used to screen and test for
40 employment.

41 (2) Retired employees' and retired public officials' home addresses,
42 home telephone numbers and other financial and nonfinancial membership
43 records; active and inactive member financial and membership records
44 and mortgage portfolio loan documents maintained by the public employee
45 retirement system. Financial statements prepared by retirement system
46 staff, funding agents and custodians concerning the investment of assets

1 of the public employee retirement system of Idaho are not considered
2 confidential under this chapter.

3 (3) Information and records submitted to the Idaho state lottery
4 for the performance of background investigations of employees, lottery
5 retailers and major procurement contractors; audit records of lottery
6 retailers, vendors and major procurement contractors submitted to or
7 performed by the Idaho state lottery; validation and security tests of the
8 state lottery for lottery games; business records and information submitted
9 pursuant to sections 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code,
10 and such documents and information obtained and held for the purposes of
11 lottery security and investigative action as determined by lottery rules
12 unless the public interest in disclosure substantially outweighs the
13 private need for protection from public disclosure.

14 (4) Records of a personal nature as follows:

15 (a) Records of personal debt filed with a public agency or independent
16 public body corporate and politic pursuant to law;

17 (b) Personal bank records compiled by a public depositor for the
18 purpose of public funds transactions conducted pursuant to law;

19 (c) Records of ownership of financial obligations and instruments
20 of a public agency or independent public body corporate and politic,
21 such as bonds, compiled by the public agency or independent public body
22 corporate and politic pursuant to law;

23 (d) Records, with regard to the ownership of, or security interests in,
24 registered public obligations;

25 (e) Vital statistics records; and

26 (f) Military records as described in and pursuant to section 65-301,
27 Idaho Code.

28 (5) Information in an income or other tax return measured by items of
29 income or sales, which is gathered by a public agency for the purpose of
30 administering the tax, except such information to the extent disclosed in
31 a written decision of the tax commission pursuant to a taxpayer protest of
32 a deficiency determination by the tax commission, under the provisions of
33 section 63-3045B, Idaho Code.

34 (6) Records of a personal nature related directly or indirectly to the
35 application for and provision of statutory services rendered to persons
36 applying for public care for ~~the people who are~~ elderly, indigent, ~~or have~~
37 ~~mentally or physically handicapped disabilities~~, or participation in an
38 environmental or a public health study, provided the provisions of this
39 subsection making records exempt from disclosure shall not apply to the
40 extent that such records or information contained in those records are
41 necessary for a background check on an individual that is required by federal
42 law regulating the sale of firearms, guns or ammunition.

43 (7) Employment security information, except that a person may agree,
44 through written, informed consent, to waive the exemption so that a third
45 party may obtain information pertaining to the person, unless access to
46 the information by the person is restricted by subsection (3)(a), (3)(b)
47 or (3)(d) of section 9-342, Idaho Code. Notwithstanding the provisions of
48 section 9-342, Idaho Code, a person may not review identifying information
49 concerning an informant who reported to the department of labor a suspected
50 violation by the person of the employment security law, chapter 13, title 72,

1 Idaho Code, under an assurance of confidentiality. As used in this section
2 and in chapter 13, title 72, Idaho Code, "employment security information"
3 means any information descriptive of an identifiable person or persons that
4 is received by, recorded by, prepared by, furnished to or collected by the
5 department of labor or the industrial commission in the administration of
6 the employment security law.

7 (8) Any personal records, other than names, business addresses and
8 business phone numbers, such as parentage, race, religion, sex, height,
9 weight, tax identification and social security numbers, financial worth or
10 medical condition submitted to any public agency or independent public body
11 corporate and politic pursuant to a statutory requirement for licensing,
12 certification, permit or bonding.

13 (9) Unless otherwise provided by agency rule, information obtained
14 as part of an inquiry into a person's fitness to be granted or retain a
15 license, certificate, permit, privilege, commission or position, private
16 association peer review committee records authorized in title 54, Idaho
17 Code. Any agency which has records exempt from disclosure under the
18 provisions of this subsection shall annually make available a statistical
19 summary of the number and types of matters considered and their disposition.

20 (10) The records, findings, determinations and decisions of any
21 prelitigation screening panel formed under chapters 10 and 23, title 6,
22 Idaho Code.

23 (11) Complaints received by the board of medicine and investigations
24 and informal proceedings, including informal proceedings of any committee
25 of the board of medicine, pursuant to chapter 18, title 54, Idaho Code, and
26 rules adopted thereunder.

27 (12) Records of the department of health and welfare or a public health
28 district that identify a person infected with a reportable disease.

29 (13) Records of hospital care, medical records, including
30 prescriptions, drug orders, records or any other prescription information
31 that specifically identifies an individual patient, prescription records
32 maintained by the board of pharmacy under sections 37-2726 and 37-2730A,
33 Idaho Code, records of psychiatric care or treatment and professional
34 counseling records relating to an individual's condition, diagnosis, care
35 or treatment, provided the provisions of this subsection making records
36 exempt from disclosure shall not apply to the extent that such records or
37 information contained in those records are necessary for a background check
38 on an individual that is required by federal law regulating the sale of
39 firearms, guns or ammunition.

40 (14) Information collected pursuant to the directory of new hires act,
41 chapter 16, title 72, Idaho Code.

42 (15) Personal information contained in motor vehicle and driver records
43 that is exempt from disclosure under the provisions of chapter 2, title 49,
44 Idaho Code.

45 (16) Records of the financial status of prisoners pursuant to
46 subsection (2) of section 20-607, Idaho Code.

47 (17) Records of the Idaho state police or department of correction
48 received or maintained pursuant to section 19-5514, Idaho Code, relating to
49 DNA databases and databanks.

1 (18) Records of the department of health and welfare relating to a
2 survey, resurvey or complaint investigation of a licensed nursing facility
3 shall be exempt from disclosure. Such records shall, however, be subject
4 to disclosure as public records as soon as the facility in question has
5 received the report, and no later than the fourteenth day following the
6 date that department of health and welfare representatives officially exit
7 the facility pursuant to federal regulations. Provided however, that for
8 purposes of confidentiality, no record shall be released under this section
9 which specifically identifies any nursing facility resident.

10 (19) Records and information contained in the registry of immunizations
11 against childhood diseases maintained in the department of health and
12 welfare, including information disseminated to others from the registry by
13 the department of health and welfare.

14 (20) Records of the Idaho housing and finance association (IHFA)
15 relating to the following:

16 (a) Records containing personal financial, family, health or similar
17 personal information submitted to or otherwise obtained by the IHFA;

18 (b) Records submitted to or otherwise obtained by the IHFA with regard
19 to obtaining and servicing mortgage loans and all records relating to
20 the review, approval or rejection by the IHFA of said loans;

21 (c) Mortgage portfolio loan documents;

22 (d) Records of a current or former employee other than the employee's
23 duration of employment with the association, position held and location
24 of employment. This exemption from disclosure does not include the
25 contracts of employment or any remuneration, including reimbursement
26 of expenses, of the executive director, executive officers or
27 commissioners of the association. All other personnel information
28 relating to an association employee or applicant including, but not
29 limited to, information regarding sex, race, marital status, birth
30 date, home address and telephone number, applications, testing and
31 scoring materials, grievances, correspondence, retirement plan
32 information and performance evaluations, shall not be disclosed to
33 the public without the employee's or applicant's written consent.
34 An employee or authorized representative may inspect and copy that
35 employee's personnel records, except for material used to screen and
36 test for employment or material not subject to disclosure elsewhere in
37 the Idaho public records act.

38 (21) Records of the department of health and welfare related to child
39 support services in cases in which there is reasonable evidence of domestic
40 violence, as defined in chapter 63, title 39, Idaho Code, that can be used
41 to locate any individuals in the child support case except in response to a
42 court order.

43 (22) Records of the Idaho state bar lawyer assistance program pursuant
44 to chapter 49, title 54, Idaho Code, unless a participant in the program
45 authorizes the release pursuant to subsection (4) of section 54-4901, Idaho
46 Code.

47 (23) Records and information contained in the trauma registry created
48 by chapter 20, title 57, Idaho Code, together with any reports, analyses and
49 compilations created from such information and records.

1 (24) Records contained in the court files, or other records prepared as
 2 part of proceedings for judicial authorization of sterilization procedures
 3 pursuant to chapter 39, title 39, Idaho Code.

4 (25) The physical voter registration card on file in the county clerk's
 5 office; however, a redacted copy of said card shall be made available
 6 consistent with the requirements of this section. Information from the
 7 voter registration card maintained in the statewide voter registration
 8 database, including age, will be made available except for the voter's
 9 driver's license number, date of birth and, upon showing of good cause by
 10 the voter to the county clerk in consultation with the county prosecuting
 11 attorney, the physical residence address of the voter. For the purposes of
 12 this subsection good cause shall include the protection of life and property
 13 and protection of victims of domestic violence and similar crimes.

14 (26) File numbers, passwords and information in the files of the health
 15 care directive registry maintained by the secretary of state under section
 16 39-4515, Idaho Code, are confidential and shall not be disclosed to any
 17 person other than to the person who executed the health care directive or the
 18 revocation thereof and that person's legal representatives, to the person
 19 who registered the health care directive or revocation thereof, and to
 20 physicians, hospitals, medical personnel, nursing homes, and other persons
 21 who have been granted file number and password access to the documents within
 22 that specific file.

23 (27) Records in an address confidentiality program participant's
 24 file as provided for in chapter 57, title 19, Idaho Code, other than the
 25 address designated by the secretary of state, except under the following
 26 circumstances:

- 27 (a) If requested by a law enforcement agency, to the law enforcement
- 28 agency; or
- 29 (b) If directed by a court order, to a person identified in the order.

30 SECTION 4. That Section 10-1204, Idaho Code, be, and the same is hereby
 31 amended to read as follows:

32 10-1204. REPRESENTATIVES AND PERSONS BENEFICIALLY INTERESTED --
 33 RIGHT TO DECLARATION. Any person interested as or through an executor,
 34 administrator, trustee, guardian or other fiduciary, creditor, devisee,
 35 legatee, heir, next of kin, or cestui que trust, in the administration of
 36 a trust, or of the estate of a decedent, an infant, ~~lunatic~~ a person with a
 37 mental disability or insolvent, may have a declaration of rights or legal
 38 relations in respect thereto;

39 (a) To ascertain any class of creditors, devisees, legatees, heirs,
 40 next of kin or other; or

41 (b) To direct the executors, administrators or trustees to do or
 42 abstain from doing any particular act in their fiduciary capacity; or

43 (c) To determine any question arising in the administration of the
 44 estate or trust, including questions of construction of wills and other
 45 writings.

46 SECTION 5. That Section 15-5-401, Idaho Code, be, and the same is hereby
 47 amended to read as follows:

1 15-5-401. PROTECTIVE PROCEEDINGS. Upon petition and after notice
 2 and hearing in accordance with the provisions of this Part, the court may
 3 appoint a conservator or make other protective order for cause as follows:

4 (a) Appointment of a conservator or other protective order may be made
 5 in relation to the estate and affairs of a minor if the court determines that
 6 a minor owns money or property that requires management or protection which
 7 cannot otherwise be provided, has or may have business affairs which may
 8 be jeopardized or prevented by his minority, or that funds are needed for
 9 his support and education and that protection is necessary or desirable to
 10 obtain or provide funds.

11 (b) Appointment of a conservator or other protective order may be made
 12 in relation to the estate and affairs of a person if the court determines
 13 that (1) the person is unable to manage his property and affairs effectively
 14 for reasons such as mental illness, mental ~~deficiency~~ disability, physical
 15 illness or disability, chronic use of drugs, chronic intoxication,
 16 confinement, detention by a foreign power, or disappearance; and (2)
 17 the person has property which will be wasted or dissipated unless proper
 18 management is provided, or that funds are needed for the support, care and
 19 welfare of the person or those entitled to be supported by him and that
 20 protection is necessary or desirable to obtain or provide funds.

21 SECTION 6. That Section 15-5-407, Idaho Code, be, and the same is hereby
 22 amended to read as follows:

23 15-5-407. PROCEDURE CONCERNING HEARING AND ORDER ON ORIGINAL
 24 PETITION. (a) Upon receipt of a petition for appointment of a conservator
 25 or other protective order because of minority, the court shall set a date
 26 for hearing on the matters alleged in the petition. If, at any time in the
 27 proceeding, the court determines that the interests of the minor are or may
 28 be inadequately represented, it must appoint an attorney to represent the
 29 minor, giving consideration to the choice of the minor if fourteen (14) years
 30 of age or older. A lawyer appointed by the court to represent a minor has the
 31 powers and duties of a guardian ad litem.

32 (b) Upon receipt of a petition for appointment of a conservator or other
 33 protective order for reasons other than minority, the court shall set a date
 34 for hearing.

35 Unless the person to be protected has counsel of his own choice, the
 36 court may appoint a lawyer to represent him who then has the powers and
 37 duties of a guardian ad litem. If the alleged disability is mental illness,
 38 mental ~~deficiency~~ disability, physical illness or disability, advanced age,
 39 chronic use of drugs, or chronic intoxication, the court may direct that the
 40 person to be protected be examined by a physician designated by the court,
 41 preferably a physician who is not connected with any institution in which the
 42 person is a patient or is detained. The court may send a visitor to interview
 43 the person to be protected. The visitor may be a guardian ad litem or an
 44 officer or employee of the court.

45 (c) After hearing, upon finding that a basis of the appointment of a
 46 conservator or other protective order has been established, the court shall
 47 make an appointment or other appropriate order.

1 SECTION 7. That Section 18-6101, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 18-6101. RAPE DEFINED. Rape is defined as the penetration, however
4 slight, of the oral, anal or vaginal opening with the perpetrator's penis
5 accomplished with a female under any one (1) of the following circumstances:

6 1. Where the female is under the age of eighteen (18) years.
7 2. Where she is incapable, through any unsoundness of mind, due to
8 any cause including, but not limited to, mental illness, mental ~~deficiency~~
9 disability or developmental disability, whether temporary or permanent, of
10 giving legal consent.

11 3. Where she resists but her resistance is overcome by force or
12 violence.

13 4. Where she is prevented from resistance by the infliction, attempted
14 infliction, or threatened infliction of bodily harm, accompanied by
15 apparent power of execution; or is unable to resist due to any intoxicating,
16 narcotic, or anaesthetic substance.

17 5. Where she is at the time unconscious of the nature of the act. As used
18 in this section, "unconscious of the nature of the act" means incapable of
19 resisting because the victim meets one (1) of the following conditions:

20 (a) Was unconscious or asleep;

21 (b) Was not aware, knowing, perceiving, or cognizant that the act
22 occurred.

23 6. Where she submits under the belief that the person committing the
24 act is her husband, and the belief is induced by artifice, pretense or
25 concealment practiced by the accused, with intent to induce such belief.

26 7. Where she submits under the belief, instilled by the actor, that if
27 she does not submit, the actor will cause physical harm to some person in the
28 future; or cause damage to property; or engage in other conduct constituting
29 a crime; or accuse any person of a crime or cause criminal charges to be
30 instituted against her; or expose a secret or publicize an asserted fact,
31 whether true or false, tending to subject any person to hatred, contempt or
32 ridicule.

33 SECTION 8. That Section 20-225, Idaho Code, be, and the same is hereby
34 amended to read as follows:

35 20-225. PAYMENT FOR COST OF SUPERVISION. Any person under state
36 probation or parole supervision shall be required to contribute not
37 more than fifty dollars (\$50.00) per month as determined by the board of
38 correction. Costs of supervision are the direct and indirect costs incurred
39 by the department of correction to supervise probationers and parolees,
40 including tests to determine drug and alcohol use, books and written
41 materials to support rehabilitation efforts, and monitoring of physical
42 location through the use of technology. Any failure to pay such contribution
43 shall constitute grounds for the revocation of probation by the court or the
44 revocation of parole by the commission for pardons and parole. The division
45 of probation and parole in the department of correction may exempt a person
46 from the payment of all or any part of the foregoing contribution if it finds
47 any of the following factors to exist:

1 (1) The offender has diligently attempted but been unable to obtain
2 employment.

3 (2) The offender has ~~an~~ a disability affecting employment ~~handicap~~,
4 as determined by a physical, psychological, or psychiatric examination
5 acceptable to the division of probation and parole.

6 Money collected as a fee for services will be placed in the probation and
7 parole receipts revenue fund, which is hereby created in the dedicated fund
8 in the state treasury, and utilized to provide supervision for clients.
9 Moneys in the probation and parole receipts revenue fund may be expended only
10 after appropriation by the legislature.

11 SECTION 9. That Section 20-508, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 20-508. WAIVER OF JURISDICTION AND TRANSFER TO OTHER COURTS. (1) After
14 the filing of a petition and after full investigation and hearing, the court
15 may waive jurisdiction under the juvenile corrections act over the juvenile
16 and order that the juvenile be held for adult criminal proceedings when:

17 (a) A juvenile is alleged to have committed any of the crimes enumerated
18 in section 20-509, Idaho Code; or

19 (b) A juvenile is alleged to have committed an act other than those
20 enumerated in section 20-509, Idaho Code, after the child became
21 fourteen (14) years of age which would be a crime if committed by an
22 adult; or

23 (c) An adult at the time of the filing of the petition is alleged to have
24 committed an act prior to his having become eighteen (18) years of age
25 which would be a felony if committed by an adult, and the court finds
26 that the adult is not committable to an institution for ~~the mentally~~
27 ~~deficient~~ people with intellectual disabilities or mentally ill~~ness~~,
28 is not treatable in any available institution or facility available to
29 the state designed for the care and treatment of juveniles, or that the
30 safety of the community requires the adult continue under restraint; or

31 (d) An adult already under the jurisdiction of the court is alleged to
32 have committed a crime while an adult.

33 (2) A motion to waive jurisdiction under the juvenile corrections
34 act and prosecute a juvenile under the criminal law may be made by the
35 prosecuting attorney, the juvenile, or by motion of the court upon its own
36 initiative. The motion shall be in writing and contain the grounds and
37 reasons in support thereof.

38 (3) Upon the filing of a motion to waive jurisdiction under the juvenile
39 corrections act, the court shall enter an order setting the motion for
40 hearing at a time and date certain and shall order a full and complete
41 investigation of the circumstances of the alleged offense to be conducted by
42 county probation, or such other agency or investigation officer designated
43 by the court.

44 (4) Upon setting the time for the hearing upon the motion to waive
45 jurisdiction, the court shall give written notice of said hearing to the
46 juvenile, and the parents, guardian or custodian of the juvenile, and the
47 prosecuting attorney, at least ten (10) days before the date of the hearing,
48 or a lesser period stipulated by the parties, and such notice shall inform
49 the juvenile and the parents, guardian or custodian of the juvenile of their

1 right to court appointed counsel. Service of the notice shall be made in the
2 manner prescribed for service of a summons under section 20-512, Idaho Code.

3 (5) The hearing upon the motion to waive jurisdiction shall be held in
4 the same manner as an evidentiary hearing upon the original petition and
5 shall be made part of the record.

6 (6) If as a result of the hearing on the motion to waive jurisdiction the
7 court shall determine that jurisdiction should not be waived, the petition
8 shall be processed in the customary manner as a juvenile corrections act
9 proceeding. However, in the event the court determines, as a result of the
10 hearing, that juvenile corrections act jurisdiction should be waived and the
11 juvenile should be prosecuted under the criminal laws of the state of Idaho,
12 the court shall enter findings of fact and conclusions of law upon which it
13 bases such decision together with a decree waiving juvenile corrections
14 act jurisdiction and binding the juvenile over to the authorities for
15 prosecution under the criminal laws of the state of Idaho.

16 (7) No motion to waive juvenile corrections act jurisdiction shall be
17 recognized, considered, or heard by the court in the same case once the court
18 has entered an order or decree in that case that said juvenile has come within
19 the purview of the juvenile corrections act, and all subsequent proceedings
20 after the decree finding the juvenile within the purview of the act must be
21 under and pursuant to the act and not as a criminal proceeding.

22 (8) In considering whether or not to waive juvenile court jurisdiction
23 over the juvenile, the juvenile court shall consider the following factors:

24 (a) The seriousness of the offense and whether the protection of the
25 community requires isolation of the juvenile beyond that afforded by
26 juvenile facilities;

27 (b) Whether the alleged offense was committed in an aggressive,
28 violent, premeditated, or willful manner;

29 (c) Whether the alleged offense was against persons or property,
30 greater weight being given to offenses against persons;

31 (d) The maturity of the juvenile as determined by considerations of his
32 home, environment, emotional attitude, and pattern of living;

33 (e) The juvenile's record and previous history of contacts with the
34 juvenile corrections system;

35 (f) The likelihood that the juvenile will develop competency and
36 life skills to become a contributing member of the community by use of
37 facilities and resources available to the court;

38 (g) The amount of weight to be given to each of the factors listed in
39 subsection (8) of this section is discretionary with the court, and a
40 determination that the juvenile is not a fit and proper subject to be
41 dealt with under the juvenile court law may be based on any one (1) or
42 a combination of the factors set forth above, which shall be recited in
43 the order of waiver.

44 (9) If the court does not waive jurisdiction and order a juvenile or
45 adult held for criminal proceedings, the court in a county other than the
46 juvenile's or adult's home county, after entering a decree that the juvenile
47 or adult is within the purview of this chapter, may certify the case for
48 sentencing to the court of the county in which the juvenile or adult resides
49 upon being notified that the receiving court is willing to accept transfer.
50 In the event of a transfer, which should be made unless the court finds it

1 contrary to the interest of the juvenile or adult, the jurisdiction of the
 2 receiving court shall attach to the same extent as if the court had original
 3 jurisdiction.

4 (10) Upon conviction of a juvenile held for adult criminal proceedings
 5 under this section, the sentencing judge may, if a finding is made that adult
 6 sentencing measures would be inappropriate:

7 (a) Sentence the convicted person in accordance with the juvenile
 8 sentencing options set forth in this chapter; or

9 (b) Sentence the convicted person to the county jail or to the
 10 custody of the state board of correction but suspend the sentence
 11 or withhold judgment pursuant to section 19-2601, Idaho Code, and
 12 commit the defendant to the custody of the department of juvenile
 13 corrections for an indeterminate period of time in accordance with
 14 section 20-520(1)(r), Idaho Code. The court, in its discretion, may
 15 order that the suspended sentence or withheld judgment be conditioned
 16 upon the convicted person's full compliance with all reasonable
 17 program requirements of the department of juvenile corrections. Such a
 18 sentence may also set terms of probation, which may be served under the
 19 supervision of county juvenile probation. However, in no event may the
 20 total of the actual time spent by the convicted person in the custody
 21 of the department plus any adult sentence imposed by the court exceed
 22 the maximum period of imprisonment that could be imposed on an adult
 23 convicted of the same crime.

24 (c) If a convicted person is given a suspended sentence or withheld
 25 judgment conditioned upon the convicted person's compliance with
 26 all reasonable program requirements of the department pursuant to
 27 paragraph (b) of this subsection, and if the department reasonably
 28 believes that the convicted person is failing to comply with all
 29 reasonable program requirements, the department may petition the
 30 sentencing court to revoke the commitment to the department and
 31 transfer the convicted person to the county jail or to the custody of the
 32 state board of correction for the remainder of the sentence.

33 SECTION 10. That Section 32-106, Idaho Code, be, and the same is hereby
 34 amended to read as follows:

35 32-106. CONTRACTS OF ~~IDIOTS~~ PERSONS WITHOUT UNDERSTANDING. A person
 36 entirely without understanding has no power to make a contract of any
 37 kind, but he is liable for the reasonable value of things furnished to him
 38 necessary for his support or the support of his family.

39 SECTION 11. That Section 33-124, Idaho Code, be, and the same is hereby
 40 amended to read as follows:

41 33-124. SPECIAL VOCATIONAL EDUCATION PROGRAMS. Any school district,
 42 or combination of school districts, within the state of Idaho, including
 43 charter districts, may submit to the state board of education a plan
 44 for the operation of a program providing instruction and training for
 45 ~~handicapped~~ students with disabilities under the age of twenty-two (22)
 46 years in vocational education. The state board of education may approve
 47 or disapprove such a plan. However, should the state board approve such a

1 plan, then the program operated under such a plan shall be entitled to all
 2 considerations and benefits which by law are available to the educational
 3 programs of the school districts.

4 SECTION 12. That Section 33-403A, Idaho Code, be, and the same is hereby
 5 amended to read as follows:

6 33-403A. ASSISTANCE TO VOTER. ~~a. (1)~~ If any elector is unable, due
 7 to physical ~~disability~~ or other ~~handicap disability~~, to enter the polling
 8 place, he may be handed a ballot outside the polling place but within forty
 9 (40) feet thereof by one (1) of the election clerks, and in his presence, but
 10 in a secret manner, mark and return the same to such election officer who
 11 shall proceed to deposit the ballot as provided by law.

12 ~~b. (2)~~ If any elector, who is unable by reason of physical ~~disability~~
 13 or other ~~handicap disability~~ to record his vote by personally marking his
 14 ballot and who desires to vote, then and in that case such elector shall be
 15 given assistance by the person of his choice or by one (1) of the election
 16 clerks. Such clerk or selected person shall mark the ballot in the manner
 17 directed by the elector and fold it properly and present it to the elector
 18 before leaving the voting compartment or area provided for such purpose. The
 19 elector shall then present it to the judge of election who shall deposit the
 20 ballot as provided by law.

21 SECTION 13. That Section 33-1002, Idaho Code, be, and the same is hereby
 22 amended to read as follows:

23 33-1002. EDUCATIONAL SUPPORT PROGRAM. The educational support
 24 program is calculated as follows:

25 (1) State Educational Support Funds. Add the state appropriation,
 26 including the moneys available in the public school income fund, together
 27 with all miscellaneous revenues to determine the total state funds.

28 (2) From the total state funds subtract the following amounts needed
 29 for state support of special programs provided by a school district:

30 (a) Pupil tuition-equivalency allowances as provided in section
 31 33-1002B, Idaho Code;

32 (b) Transportation support program as provided in section 33-1006,
 33 Idaho Code;

34 (c) Feasibility studies allowance as provided in section 33-1007A,
 35 Idaho Code;

36 (d) The approved costs for border district allowance, provided in
 37 section 33-1403, Idaho Code, as determined by the state superintendent
 38 of public instruction;

39 (e) The approved costs for exceptional child approved contract
 40 allowance, provided in subsection 2. of section 33-2004, Idaho Code, as
 41 determined by the state superintendent of public instruction;

42 (f) Certain expectant and delivered mothers allowance as provided in
 43 section 33-2006, Idaho Code;

44 (g) Salary-based apportionment calculated as provided in sections
 45 33-1004 through 33-1004F, Idaho Code;

46 (h) Unemployment insurance benefit payments according to the
 47 provisions of section 72-1349A, Idaho Code;

1 (i) For expenditure as provided by the public school technology
 2 program;
 3 (j) For employee severance payments as provided in section 33-521,
 4 Idaho Code;
 5 (k) For distributions to the Idaho digital learning academy as provided
 6 in section 33-1020, Idaho Code;
 7 (l) For the support of provisions that provide a safe environment
 8 conducive to student learning and maintain classroom discipline, an
 9 allocation of \$300 per support unit; and
 10 (m) Any additional amounts as required by statute to effect
 11 administrative adjustments or as specifically required by the
 12 provisions of any bill of appropriation;
 13 to secure the total educational support distribution funds.
 14 (3) Average Daily Attendance. The total state average daily attendance
 15 shall be the sum of the average daily attendance of all of the school
 16 districts of the state. The state board of education shall establish rules
 17 setting forth the procedure to determine average daily attendance and the
 18 time for, and method of, submission of such report. Average daily attendance
 19 calculation shall be carried out to the nearest hundredth. Computation of
 20 average daily attendance shall also be governed by the provisions of section
 21 33-1003A, Idaho Code.
 22 (4) Support Units. The total state support units shall be determined
 23 by using the tables set out hereafter called computation of kindergarten
 24 support units, computation of elementary support units, computation of
 25 secondary support units, computation of exceptional education support
 26 units, and computation of alternative school secondary support units. The
 27 sum of all of the total support units of all school districts of the state
 28 shall be the total state support units.

29 COMPUTATION OF KINDERGARTEN SUPPORT UNITS

30 Average Daily		
31 Attendance	Attendance Divisor	Units Allowed
32 41 or more	40.....	1 or more as computed
33 31 - 40.99 ADA....	-.....	1
34 26 - 30.99 ADA....	-.....	.85
35 21 - 25.99 ADA....	-.....	.75
36 16 - 20.99 ADA....	-.....	.6
37 8 - 15.99 ADA....	-.....	.5
38 1 - 7.99 ADA....	-.....	count as elementary

39 COMPUTATION OF ELEMENTARY SUPPORT UNITS

40 Average Daily		Minimum Units
41 Attendance	Attendance Divisor	Allowed
42 300 or more ADA.....	.....	.. 15
43	..23...grades 4,5 & 6....	
44	..22...grades 1,2 & 3....1994-95	
45	..21...grades 1,2 & 3....1995-96	

1	..20...grades 1,2 & 3....1996-97		
2	and each year thereafter.		
3	160 to 299.99 ADA...	20	8.4
4	110 to 159.99 ADA...	19	6.8
5	71.1 to 109.99 ADA...	16	4.7
6	51.7 to 71.0 ADA...	15	4.0
7	33.6 to 51.6 ADA...	13	2.8
8	16.6 to 33.5 ADA...	12	1.4
9	1.0 to 16.5 ADA...	n/a	1.0

10 COMPUTATION OF SECONDARY SUPPORT UNITS

11	Average Daily		Minimum Units
12	Attendance	Attendance Divisor	Allowed
13	750 or more	18.5	47
14	400 - 749.99 ADA....	16	28
15	300 - 399.99 ADA....	14.5	22
16	200 - 299.99 ADA....	13.5	17
17	100 - 199.99 ADA....	12	9
18	99.99 or fewer	Units allowed as follows:	
19	Grades 7-12	.....	8
20	Grades 9-12	.....	6
21	Grades 7- 9	.....	1 per 14 ADA
22	Grades 7- 8	.....	1 per 16 ADA

23 COMPUTATION OF EXCEPTIONAL EDUCATION SUPPORT UNITS

24	Average Daily		Minimum Units
25	Attendance	Attendance Divisor	Allowed
26	14 or more	14.5	1 or more as computed
27			
28	12 - 13.99....	-	1
29	8 - 11.99....	- .....	.75
30	4 - 7.99....	- .....	.5
31	1 - 3.99....	- .....	.25

32 COMPUTATION OF ALTERNATIVE SCHOOL SECONDARY SUPPORT UNITS

33	Pupils in Attendance	Attendance Divisor	Minimum Units
34			Allowed
35	12 or more.....	12	1 or more as computed
36			

37 In applying these tables to any given separate attendance unit, no
38 school district shall receive less total money than it would receive if it

1 had a lesser average daily attendance in such separate attendance unit.
 2 In applying the kindergarten table to a kindergarten program of less days
 3 than a full school year, the support unit allowance shall be in ratio to the
 4 number of days of a full school year. The tables for exceptional education
 5 and alternative school secondary support units shall be applicable only
 6 for programs approved by the state department of education following
 7 rules established by the state board of education. Moneys generated from
 8 computation of support units for alternative schools shall be utilized for
 9 alternative school programs. School district administrative and facility
 10 costs may be included as part of the alternative school expenditures.

11 (5) State Distribution Factor per Support Unit. Divide educational
 12 support program distribution funds, after subtracting the amounts necessary
 13 to pay the obligations specified in subsection (2) of this section, by
 14 the total state support units to secure the state distribution factor per
 15 support unit.

16 (6) District Support Units. The number of support units for each school
 17 district in the state shall be determined as follows:

18 (a) (i) Divide the actual average daily attendance, excluding
 19 students approved for inclusion in the exceptional child
 20 educational program, for the administrative schools and each
 21 of the separate schools and attendance units by the appropriate
 22 divisor from the tables of support units in this section,
 23 then add the quotients to obtain the district's support units
 24 allowance for regular students, kindergarten through grade 12
 25 including alternative school secondary students. Calculations in
 26 application of this subsection shall be carried out to the nearest
 27 tenth.

28 (ii) Divide the combined totals of the average daily attendance of
 29 all preschool, ~~handicapped~~, kindergarten, elementary, secondary,
 30 ~~and~~ and juvenile detention center students and students with
 31 disabilities approved for inclusion in the exceptional child
 32 program of the district by the appropriate divisor from the table
 33 for computation of exceptional education support units to obtain
 34 the number of support units allowed for the district's approved
 35 exceptional child program. Calculations for this subsection
 36 shall be carried out to the nearest tenth when more than one (1)
 37 unit is allowed.

38 (iii) The total number of support units of the district shall
 39 be the sum of the total support units for regular students,
 40 subsection (6)(a)(i) of this section, and the support units
 41 allowance for the approved exceptional child program, subsection
 42 (6)(a)(ii) of this section.

43 (b) Total District Allowance Educational Program. Multiply the
 44 district's total number of support units, carried out to the nearest
 45 tenth, by the state distribution factor per support unit and to this
 46 product add the approved amount of programs of the district provided in
 47 subsection (2) of this section to secure the district's total allowance
 48 for the educational support program.

(c) District Share. The district's share of state apportionment is the amount of the total district allowance, subsection (6) (b) of this section.

(d) Adjustment of District Share. The contract salary of every noncertificated teacher shall be subtracted from the district's share as calculated from the provisions of subsection (6) (c) of this section.

(7) Property Tax Computation Ratio. In order to receive state funds pursuant to this section a charter district shall utilize a school maintenance and operation property tax computation ratio for the purpose of calculating its maintenance and operation levy, that is no greater than that which it utilized in tax year 1994, less four-tenths of one percent (.4%). As used herein, the term "property tax computation ratio" shall mean a ratio determined by dividing the district's certified property tax maintenance and operation budget by the actual or adjusted market value for assessment purposes as such values existed on December 31, 1993. Such maintenance and operation levy shall be based on the property tax computation ratio multiplied by the actual or adjusted market value for assessment purposes as such values existed on December 31 of the prior calendar year.

SECTION 14. That Section 33-1007, Idaho Code, be, and the same is hereby amended to read as follows:

33-1007. EXCEPTIONAL EDUCATION PROGRAM REPORT. The state department of education shall report annually to the legislature the status of the exceptional education support program. The report shall include, but not be limited to, data concerning the number of ~~persons~~ students with disabilities and gifted students served, ~~both handicapped and gifted~~, the districts which operate programs and the nature of the program, the money distributed pursuant to the provisions of the exceptional education support program, and estimated number of ~~persons, both handicapped~~ students with disabilities and gifted students, requiring but not receiving services. The report shall be filed not later than the fifteenth day of the legislative session and may include recommendations of the board relating to administrations of the program.

SECTION 15. That Section 33-1404, Idaho Code, be, and the same is hereby amended to read as follows:

33-1404. DISTRICTS TO RECEIVE PUPILS. Every school district shall receive and admit pupils transferred thereto, where payment of their tuition is to be paid by the home district, or waived by the receiving district, except when any such transfer would work a hardship on the receiving district. Each receiving school district shall be governed by written policy guidelines, adopted by the board of trustees, which define hardship impact upon the district or upon an individual school within the district. The policy shall provide specific standards for acceptance and rejection of applications for accepting out of district pupils. Standards may include the capacity of a program, class, grade level or school building. Standards may not include previous academic achievement, athletic or other extracurricular ability, ~~handicapping~~ disabling conditions, or proficiency in the English language.

1 Nonresident pupils who are placed by court order under provisions of the
2 Idaho juvenile corrections or child protective acts and reside in licensed
3 homes, agencies and institutions shall be received and admitted by the
4 school district in which the facility is located without payment of tuition.

5 Homeless children and youth as defined by the ~~Stewart B. McKinney~~
6 ~~homeless assistance act (P.L. 100-77)~~ McKinney-Vento homeless assistance
7 act 42 U.S.C. section 11301 et seq., may attend any school district or school
8 within a district without payment of tuition when it is determined to be in
9 the best interest of that child.

10 SECTION 16. That Section 33-2001, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 33-2001. DEFINITIONS. (1-) "Ancillary personnel" means those persons
13 who render special services to exceptional children in regular or in
14 addition to regular or special class instruction as defined by the state
15 board of education.

16 (2) "Children with disabilities" means those children with
17 cognitive impairments, hearing impairments, deafness, speech or language
18 impairments, visual impairments, blindness, deaf-blindness, serious
19 emotional disturbance, orthopedic impairments, severe or multiple
20 disabilities, autism, traumatic brain injury, developmental delay or
21 specific learning disabilities, and who by reason of the qualifying
22 disability require special education and related services.

23 ~~2-(3) "Exceptional children" means both children with disabilities and~~
24 ~~gifted/talented children with regard to funding for school districts.~~

25 ~~3. "Children with disabilities" mean those children with mental~~
26 ~~retardation, hearing impairments, deafness, speech or language~~
27 ~~impairments, visual impairments, blindness, deaf blindness, serious~~
28 ~~emotional disturbance, orthopedic impairments, severe or multiple~~
29 ~~disabilities, autism, traumatic brain injury, developmental delay or~~
30 ~~specific learning disabilities, and who by reason of the qualifying~~
31 ~~disability requires special education and related services.~~

32 (4-) "Gifted/talented children" means those students who are
33 identified as possessing demonstrated or potential abilities that give
34 evidence of high performing capabilities in intellectual, creative,
35 specific academic or leadership areas, or ability in the performing or
36 visual arts and who require services or activities not ordinarily provided
37 by the school in order to fully develop such capabilities.

38 (5-) "Special education" or "special instructional service" means
39 specially designed instruction or a related service, at no cost to the
40 parents, to meet the unique needs of an exceptional child.

41 SECTION 17. That Section 33-4407, Idaho Code, be, and the same is hereby
42 amended to read as follows:

43 33-4407. ELIGIBLE TYPES OF EMPLOYMENT. Students may be employed
44 either on-campus or off-campus at eligible accredited institutions of
45 higher education, subject to the limitations expressed in this chapter.
46 Employing organizations and agencies must be responsible and must have
47 professional supervision. Discrimination by employers on the bases of sex,

1 race, color, age, religion, ~~natural~~ national origin, marital status, or
 2 ~~handicap~~ disability is prohibited.

3 Generally, employment which is allowable under the federal college
 4 work study program is also allowable under the Idaho program. This applies
 5 to both on-campus and off-campus employment, except that off-campus jobs
 6 for the program must be within Idaho. Likewise, employment which is not
 7 allowable under federal regulations is not eligible under the Idaho program.

8 Opinions from federal officials as to the legitimacy of a particular job
 9 under the federal college work study program may be assumed to be applicable
 10 to the Idaho program. However, approval to use Idaho program funds for
 11 particular jobs should not be construed as permission to institutions to use
 12 federal work-study funds to employ students in such jobs.

13 The financial aid office at the institution is responsible for ensuring
 14 that disbursements are made only for work performed in accordance with
 15 the written job description, with adequate supervision, and with proper
 16 documentation for the hours worked.

17 SECTION 18. That Section 33-4604, Idaho Code, be, and the same is hereby
 18 amended to read as follows:

19 33-4604. DEFINITIONS. As used in this chapter:

20 (1) "At-risk person" means any Idaho resident who meets three (3) or
 21 more of the following five (5) criteria:

22 (a) Is a potential first-generation college student;

23 (b) Is ~~handicapped~~ an individual with a disability as defined in
 24 ~~section 504 of the rehabilitation act,~~ 29 U.S.C. section ~~79405;~~ 79405;

25 (c) Is a migrant farmworker or other seasonal farmworker or a dependent
 26 of a migrant farmworker or other seasonal farmworker;

27 (d) Is a minority person as defined in this chapter; or

28 (e) Has financial need as defined in this chapter.

29 (2) "Board" means the state board of education and the board of regents
 30 of the university of Idaho.

31 (3) "Eligible student" means any graduate of an accredited Idaho
 32 secondary school who is an at-risk person as defined in this chapter and
 33 who declares his intention to matriculate in an eligible postsecondary
 34 institution in the state of Idaho during the education year immediately
 35 following application for an award under this program.

36 (4) "Farmwork" means any agricultural activity, performed for either
 37 wages or personal subsistence, on a farm, ranch or similar establishment.

38 (5) "Financial need" means the extent of a person's inability to meet
 39 the institutionally defined cost of education at an eligible postsecondary
 40 institution through parent, family and/or personal resources as determined
 41 under rules to be established by the state board of education.

42 (6) "Migrant farmworker" means a seasonal farmworker whose employment
 43 required travel that precluded the farmworker from returning to his
 44 permanent place of residence within the same day.

45 (7) "Minority person" means any Idaho resident who is a member of an
 46 ethnic group whose members historically have participated in postsecondary
 47 education at a rate lower than their occurrence in the population of the
 48 United States including, but not limited to, persons of native American,
 49 ~~Afro-American~~ African-American, and Hispanic-American descent.

1 (8) "Potential first-generation college student" means a person
2 neither of whose parents received a bachelor's degree.

3 (9) "Seasonal farmworker" means a person who, within the past
4 twenty-four (24) months, was employed for at least seventy-five (75) days
5 in farmwork, and whose primary employment was in farmwork on a temporary or
6 seasonal basis (that is, not as a constant year-round activity).
7 All terms not specifically defined in this chapter shall be defined as in
8 sections 33-4303 through 33-4315, Idaho Code, governing the state of Idaho
9 scholarship program.

10 SECTION 19. That Section 34-1108, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 34-1108. ASSISTANCE TO VOTER. (1) If any registered elector is unable,
13 due to physical ~~disability~~ or other ~~handicap~~ disability, to enter the
14 polling place, he may be handed a ballot outside the polling place but within
15 forty (40) feet thereof by one (1) of the election clerks, and in his presence
16 but in a secret manner, mark and return the same to such election officer who
17 shall proceed as provided by law to record the ballot.

18 (2) If any registered elector, who is unable by reason of physical
19 ~~disability~~ or other ~~handicap~~ disability to record his vote by personally
20 marking his ballot and who desires to vote, then and in that case such elector
21 shall be given assistance by the person of his choice or by one (1) of the
22 election clerks. Such clerk or selected person shall mark the ballot in
23 the manner directed by the elector and fold it properly and present it to
24 the elector before leaving the voting compartment or area provided for such
25 purpose. The elector shall then present it to the judge of election in the
26 manner provided above.

27 SECTION 20. That Section 34-2427, Idaho Code, be, and the same is hereby
28 amended to read as follows:

29 34-2427. ~~PHYSICALLY DISABLED~~ VOTERS WITH PHYSICAL OR OTHER
30 DISABILITY. (1) The election board clerks shall instruct electors on how
31 to record their votes on the voting machine or vote tally system, and shall
32 give assistance to any elector who declares that he is unable by reason of
33 physical ~~disability~~ or other ~~handicap~~ disability to record his vote on the
34 machine or vote tally system, and on request by the elector after he has
35 entered the voting booth, shall give him the necessary information to enable
36 him to record his vote.

37 (2) Any elector who, because of blindness, physical ~~disability~~ or
38 other ~~handicap~~ disability, is unable to mark his ballot shall, upon request,
39 receive the assistance of the election board clerks or some other person
40 chosen by the elector in the marking thereof. Such clerks or person shall
41 ascertain the wishes of the elector and mark his ballot in accordance
42 therewith, and shall thereafter give no information regarding such marking.
43 The election board judge may require a declaration of disability to be made
44 by the elector under oath. Whenever an elector receives assistance in this
45 manner, a clerk shall make a notation thereof in the combination election
46 record and poll book following the name of the elector.

1 (3) If any elector, after entering the voting booth, asks for
 2 information regarding the operation of the voting machine or marking device,
 3 the election board clerks shall give him the necessary information.

4 SECTION 21. That Section 38-1601, Idaho Code, be, and the same is hereby
 5 amended to read as follows:

6 38-1601. INTERSTATE INMATE FIREFIGHTER COMPACT. The "Interstate
 7 Inmate Firefighter Compact" is hereby enacted into law and entered into
 8 by this state with any other states legally joining therein in the form
 9 substantially as follows:

10 INTERSTATE FOREST FIRE SUPPRESSION COMPACT

11 ARTICLE I--Purpose and Policy

12 The purpose of this compact is to provide for the development and
 13 execution of programs to facilitate the use of offenders in the forest fire
 14 suppression efforts of the party states for the ultimate protection of life,
 15 property and natural resources in the party states. The purpose of this
 16 compact is also, in emergent situations, to allow a sending state to cross
 17 state lines with an inmate when, due to weather or road conditions, it is
 18 necessary to cross state lines to facilitate the transport of an inmate.

19 ARTICLE II--Definitions

20 As used in this compact, unless the context clearly requires otherwise:

21 (1) "Fire suppression unit" means a group of inmates selected by
 22 the sending states, corrections personnel, and any other persons deemed
 23 necessary for the transportation, supervision, care, security and
 24 discipline of inmates to be used in forest fire suppression efforts in the
 25 receiving state.

26 (2) "Forest fire" means any fire burning in any land designated by a
 27 party state or federal land management agencies as forest land.

28 (3) "Inmate" means a male or female offender who is under sentence to or
 29 confined in a prison or other correctional institution.

30 (4) "Institution" means any prison, reformatory, honor camp, or other
 31 correctional facility, except facilities for ~~the people with mentally~~
 32 ~~illness or mentally handicapped~~ intellectual disabilities, in which inmates
 33 may lawfully be confined.

34 (5) "Receiving state" means a state party to this compact to which a
 35 fire suppression unit is traveling.

36 (6) "Sending state" means a state party to this compact from which a
 37 fire suppression unit is traveling.

38 ARTICLE III--Contracts

39 (1) Each party state may make one or more contracts with any one or more
 40 of the other party states for the assistance of one or more fire suppression
 41 units in forest fire suppression efforts. Any such contract shall provide,

1 for matters as may be necessary and appropriate, to fix the obligations,
2 responsibilities and rights of the sending and receiving state.

3 (2) The terms and provisions of this compact shall be part of any
4 contract entered into by the authority of, or pursuant to, this compact.
5 Nothing in any such contract may be inconsistent with this compact.

6 ARTICLE IV--Procedures and Rights

7 (1) Each party state shall appoint a liaison for the coordination and
8 deployment of the fire suppression units of each party state.

9 (2) Whenever the duly constituted judicial or administrative
10 authorities in a state party to this compact, that has entered into a
11 contract pursuant to this compact, decides that the assistance of a fire
12 suppression unit of a party state is required for forest fire suppression
13 efforts, such authorities may request the assistance of one or more fire
14 suppression units of any state party to this compact through an appointed
15 liaison.

16 (3) Inmates who are members of a fire suppression unit shall at all
17 times be subject to the jurisdiction of the sending state, and at all times
18 shall be under the ultimate custody of corrections officers duly accredited
19 by the sending state.

20 (4) The receiving state shall make adequate arrangements for the
21 confinement of inmates who are members of a fire suppression unit of a
22 sending state in the event corrections officers duly accredited by the
23 sending state make a discretionary determination that an inmate requires
24 institutional confinement.

25 (5) Cooperative efforts shall be made by corrections officers
26 and personnel of the receiving state, located at a fire camp, with the
27 corrections officers and other personnel of the sending state in the
28 establishment and maintenance of fire suppression unit base camps.

29 (6) All inmates who are members of a fire suppression unit of a sending
30 state shall be cared for and treated equally with such similar inmates of
31 the receiving state, as may be members of a fire suppression unit of the
32 receiving state.

33 (7) Further, in emergent situations, a sending state shall be granted
34 authority and all the protections of any compact under this chapter to cross
35 state lines with an inmate when, due to weather or road conditions, it is
36 necessary to facilitate the transport of an inmate.

37 ARTICLE V--Acts Not Reviewable in Receiving State; Extradition

38 (1) If, while located within the territory of a receiving state, there
39 occurs against the inmate within such state any criminal charge or if the
40 inmate is suspected of committing, within such state a criminal offense,
41 the inmate shall not be returned without the consent of the receiving state
42 until discharged from prosecution or other form of proceeding, imprisonment
43 or detention for such offense. The duly accredited officers of the sending
44 state shall be permitted to transport inmates pursuant to this compact
45 through any and all states party to this compact without interference.

(2) An inmate member of a fire suppression unit of the sending state who is deemed to have escaped by a duly accredited corrections officer of a sending state shall be under the jurisdiction of both the sending state and the receiving state. Nothing contained in any compact shall be construed to prevent or affect the activities of officers and guards of any jurisdiction directed toward the apprehension and return of an escapee.

ARTICLE VI--Entry into Force

This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by Idaho and any other state.

ARTICLE VII--Withdrawal and Termination

This compact shall continue in force and remain binding upon a party state until it has enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states.

ARTICLE VIII--Other Arrangements Unaffected

Nothing contained in this compact may be construed to abrogate or impair any agreement or other agreement that a party state may have with a nonparty state for the confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.

ARTICLE IX--Construction and Severability

The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of such compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

SECTION 22. That Section 39-1202, Idaho Code, be, and the same is hereby amended to read as follows:

39-1202. DEFINITIONS. For the purposes of this chapter:

(1) "Board" means the Idaho board of health and welfare.

(2) "Child care" means that care, control, supervision or maintenance of children for twenty-four (24) hours a day which is provided as an alternative to parental care.

(3) "Child" means an individual less than eighteen (18) years of age who is not enrolled in an institution of higher education.

1 (4) "Children's agency" means a person who operates a business for the
 2 placement of children in foster homes or for adoption in a permanent home and
 3 who does not provide child care as part of that business. Children's agency
 4 does not include a licensed attorney or physician assisting or providing
 5 natural and adoptive parents with legal services or medical services
 6 necessary to initiate and complete adoptive placements.

7 (5) "Children's camp" means a program of child care at a location
 8 away from the child's home which is primarily recreational and includes
 9 the overnight accommodation of the child and is not intended to provide
 10 treatment, therapy or rehabilitation for the child.

11 (6) "Children's institution" means a person who operates a residential
 12 facility for children not related to that person if that person is
 13 an individual, for the purpose of providing child care. Children's
 14 institutions include, but are not limited to, foster homes, maternity
 15 homes, children's therapeutic outdoor programs, or any facilities providing
 16 treatment, therapy or rehabilitation for children. Children's institutions
 17 do not include: (a) facilities which provide only ~~day care~~ daycare as
 18 defined in chapter 11, title 39, Idaho Code; (b) facilities and agencies
 19 including hospitals, skilled nursing facilities, intermediate care
 20 facilities, and intermediate care facilities for ~~the mentally retarded~~
 21 people with intellectual disabilities licensed pursuant to chapter 13,
 22 title 39, Idaho Code; (c) day schools; (d) individuals acting in an advisory
 23 capacity, counseling a child in a religious context, and providing no child
 24 care associated with the advice; (e) the occasional or irregular care of
 25 a neighbor's, relative's or friend's child or children by a person not
 26 ordinarily engaged in child care.

27 (7) "Children's residential care facility" means a children's
 28 institution, excluding:

- 29 (a) Foster homes;
- 30 (b) Residential schools;
- 31 (c) Children's camps.

32 No facility expressly excluded from the definition of a children's
 33 institution is included within the definition of a children's residential
 34 care facility.

35 (8) "Children's therapeutic outdoor program" is a program which is
 36 designed to provide behavioral, substance abuse, or mental health services
 37 to minors in an outdoor setting. This does not include children's camps,
 38 church camps, or other outdoor programs primarily designed to be educational
 39 or recreational, such as Boy Scouts, Girl Scouts, 4-H or sports camps.

40 (9) "Continued care" means the ongoing placement of an individual
 41 in a foster home, children's residential care facility, or transitional
 42 living placement who reaches the age of eighteen (18) years but is less than
 43 twenty-one (21) years of age.

44 (10) "Day school" means a public, private, parochial or secular
 45 facility offering an educational program in which the children leave the
 46 facility each day at the conclusion of the academic, vocational or school
 47 supervised activities.

48 (11) "Department" means the state department of health and welfare.

49 (12) "Director" means the director of the department of health and
 50 welfare.

(13) "Foster care" means child care by a person not related to the child, in lieu of parental care, in a foster home.

(14) "Foster home" means a home which accepts, for any period of time, with or without compensation, one (1) or more children who are not related to the foster parent as members of the household for the purpose of providing substitute parental care.

(15) "Group care" means foster care of a number of children for whom child care in a family setting is not available or appropriate, in a dormitory or cottage type setting, characterized by activities and discipline of a more regimented and less formal nature than found in a family setting.

(16) "Juvenile detention" is as defined in section 20-502(6), Idaho Code, of the juvenile corrections act.

(17) "Juvenile detention center" means a facility established pursuant to sections 20-517 and 20-518, Idaho Code.

(18) "Person" includes any individual, group of individuals, association, partnership, limited liability company or corporation.

(19) "Placement" means finding a suitable licensed foster home or suitable adoptive home for a child and completing the arrangements for a child to be accepted into and adjusted to such home.

(20) "Representative" means an employee of the state department of health and welfare.

(21) "Residential facility" means any facility where child care is provided, as defined in this section, and which provides day and night accommodation.

(22) "Residential school" means a residential facility for children which:

(a) Provides a planned, scheduled, regular, academic or vocational school program for students in the elementary, middle or secondary grades as defined in section 33-1001, Idaho Code; and

(b) Provides services substantially comparable to those provided in nonresidential public schools where the primary purpose is the education and academic pursuits of the students; and

(c) Does not seek, receive or enroll students for treatment of such special needs as substance abuse, mental illness, emotional disturbance, developmental disability or ~~mental retardation~~ intellectual disability; and

(d) Is not:

(i) A college or university; or

(ii) A children's camp as defined in this section; or

(iii) A public or private day school in which the children leave the facility each day at the conclusion of the academic, vocational and school supervised activities.

(23) "Transitional living" means living arrangements and aftercare services for children, or as continued care, to gain experience living on their own in a supportive and supervised environment prior to emancipation.

SECTION 23. That Section 39-1204, Idaho Code, be, and the same is hereby amended to read as follows:

1 39-1204. FORM FOR DISCLOSURE REPORT. (1) The department shall design
 2 a form for the initial disclosure report which shall contain only the
 3 following information:

4 (a) The name, address and telephone number(s) for each children's
 5 agency or children's institution.

6 (b) The name(s), address and telephone number(s) of the individual(s)
 7 in charge at each children's agency or children's institution.

8 (c) The number of children that can be accommodated for child care at
 9 each children's institution and a description of such accommodations.

10 (d) Whether and how the children's institution seeks, receives or
 11 enrolls students for treatment of special needs such as substance
 12 abuse, mental illness, emotional disturbance, developmental
 13 disability, ~~mental retardation~~ intellectual disability, or students
 14 who have been identified by the judicial system as requiring treatment,
 15 therapy, rehabilitation or supervision.

16 (e) A complete description of the child care services to be provided at
 17 each children's institution.

18 (f) Whether and how the children's institution expects to receive
 19 payment, including payment from health insurance carriers, for
 20 identified treatment needs such as substance abuse, mental illness,
 21 emotional disturbance, developmental disability, or ~~mental~~
 22 ~~retardation~~ intellectual disability.

23 (g) Whether and how the children's institution represents to the payor
 24 of the child care services provided by the children's institution that
 25 such payment may qualify for health insurance reimbursement by the
 26 payor's carrier or may qualify for tax benefits relating to medical
 27 services.

28 (h) A description of the educational programs provided at each
 29 children's institution and their accreditation status.

30 (2) The department shall design a form for the annual update disclosure
 31 report which shall reference the information provided in the initial
 32 disclosure report and shall request identification of any changes in the
 33 information provided on the initial report or the previous annual update
 34 disclosure report.

35 SECTION 24. That Section 39-1301, Idaho Code, be, and the same is hereby
 36 amended to read as follows:

37 39-1301. DEFINITIONS. For purposes of this chapter the following
 38 definitions will apply:

39 (a) "Hospital" means a facility which:

40 (1) Is primarily engaged in providing, by or under the supervision of
 41 physicians,

42 (a) concentrated medical and nursing care on a twenty-four (24)
 43 hour basis to inpatients experiencing acute illness; and

44 (b) diagnostic and therapeutic services for medical diagnosis
 45 and treatment, psychiatric diagnosis and treatment, and care of
 46 injured, disabled, or sick persons; and

47 (c) rehabilitation services for injured, disabled, or sick
 48 persons; and

49 (d) obstetrical care.

(2) Provides for care of two (2) or more individuals for twenty-four (24) or more consecutive hours.

(3) Is staffed to provide professional nursing care on a twenty-four (24) hour basis.

(b) "Nursing facility" (nursing home) means a facility whose design and function shall provide area, space and equipment to meet the health needs of two (2) or more individuals who, at a minimum, require inpatient care and services for twenty-four (24) or more consecutive hours for unstable chronic health problems requiring daily professional nursing supervision and licensed nursing care on a twenty-four (24) hour basis, restorative, rehabilitative care, and assistance in meeting daily living needs. Medical supervision is necessary on a regular, but not daily, basis.

(c) "Intermediate care facility for ~~the mentally retarded people~~ with intellectual disabilities (ICFMR/ID)" means a nonnursing home facility, designed and operated to meet the unique educational, training, habilitative and medical needs of the developmentally disabled through the provision of active treatment.

(d) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

(e) "Government unit" means the state, or any county, municipality, or other political subdivision, or any department, division, board or other agency thereof.

(f) "Licensing agency" means the department of health and welfare.

(g) "Board" means the board of health and welfare.

(h) "Physician" means an individual licensed to practice medicine and surgery by the Idaho state board of medicine or the Idaho state board of podiatry.

(i) "Authorized provider" means an individual who is a nurse practitioner or clinical nurse specialist, licensed to practice in Idaho in accordance with the Idaho nurse practice act; or a physician's assistant, licensed by the Idaho state board of medicine.

SECTION 25. That Section 39-1402, Idaho Code, be, and the same is hereby amended to read as follows:

39-1402. DEFINITIONS. As used in this act:

(a) "Agency" means the department of health and welfare;

(b) "The federal act" shall mean, when applicable, either (1) Public Law 725 of the 79th Congress, approved August 13, 1946, entitled the Hospital Survey and Construction Act and amendments thereto or (2) Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, Public Law 88-164, and amendments thereto or (3) Public Law 91-517 of the 91st Congress, and amendments thereto;

(c) "The surgeon general" means the surgeon general of the public health service of the United States;

(d) "Health facilities" shall mean any of the following:

(1) "Hospital" means a place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care for not less than twenty-four (24) hours in any week of two (2) or more nonrelated individuals suffering from illness, disease, injury,

1 deformity, or requiring care because of old age, or a place devoted
 2 primarily to providing for not less than twenty-four (24) hours in
 3 any week of obstetrical or other medical or nursing care for two (2)
 4 or more nonrelated individuals. The term hospital includes public
 5 health centers in general, tuberculosis, mental, chronic disease and
 6 other types of hospitals, and related facilities, such as laboratories,
 7 outpatient departments, nurses' home and training facilities, and
 8 central service facilities operated in connection with hospitals;

9 (2) A facility for the provision of public health services, including
 10 related facilities such as laboratories, clinics, and administrative
 11 offices operated in connection with said facility;

12 (3) A facility specially designed for the diagnosis, treatment,
 13 education, training, or custodial care of ~~the mentally retarded people~~
 14 with intellectual disabilities, including facilities for training
 15 specialists and sheltered workshops for ~~the mentally retarded people~~
 16 with intellectual disabilities, but only if such workshops are part of
 17 facilities which provide or will provide comprehensive services for ~~the~~
 18 mentally retarded people with intellectual disabilities;

19 (4) A facility providing services for the prevention or diagnosis
 20 of mental illness, or care and treatment of mentally ill patients,
 21 or rehabilitation of such persons, which services are provided
 22 principally for persons residing in a particular community or
 23 communities in or near which the facility is situated or at a statewide
 24 facility;

25 (e) "The secretary" means the secretary of health, ~~education and~~
 26 welfare and human services of the United States, or his delegate to
 27 administer the federal act;

28 (f) "Nonprofit facility" means a facility which is owned and operated
 29 by one (1) or more nonprofit corporations or associations no part of the
 30 net earnings of which inures, or may lawfully inure, to the benefit of any
 31 private shareholder or individual.

32 SECTION 26. That Section 39-4602, Idaho Code, be, and the same is hereby
 33 amended to read as follows:

34 39-4602. PURPOSE. It is declared to be the policy of the legislature
 35 of the state of Idaho to authorize and mandate the department of health and
 36 welfare to develop and coordinate services for developmentally disabled
 37 persons through adult and child development programs and through contracts
 38 with rehabilitation facilities. The complexities of developmental
 39 disabilities require the services of many state departments as well as those
 40 of the community. It is the intent of this chapter that the department of
 41 health and welfare will cooperate with recognized agencies, organizations
 42 and departments in implementing this chapter. Services should be planned
 43 and provided as a part of a continuum. A pattern of facilities, services and
 44 eligibility should be established which is sufficiently complete to meet the
 45 needs of each developmentally disabled person regardless of age or degree of
 46 handicap disability, with consideration of the family.

47 SECTION 27. That Section 39-4604, Idaho Code, be, and the same is hereby
 48 amended to read as follows:

39-4604. DEFINITIONS. As used in this chapter:

(1) ~~"Department" means the Idaho department of health and welfare~~
"Comprehensive developmental disability system" means a system of services
including, but not limited to, the following basic services with the
intention of providing alternatives to institutionalization:

- (a) Evaluation services;
- (b) Diagnostic services;
- (c) Treatment services;
- (d) Individualized developmental programs;
- (e) Extended sheltered employment and work activities;
- (f) Recreation services;
- (g) Domiciliary care services;
- (h) Special living arrangement services;
- (i) Counseling services;
- (j) Information and referral services;
- (k) Follow-along services; and
- (l) Transportation services.

(2) "Department" means the Idaho department of health and welfare.

(3) "Developmental disabilities facility" means any service or group
of services which provide care to the developmentally disabled on an
inpatient, outpatient, residential, clinical or other programmatic basis,
including sheltered workshops and adult and child development centers.

~~(4) A "developmental disability" is:~~

~~(a) attributable to an impairment, such as mental retardation~~
~~intellectual disability, cerebral palsy, epilepsy, autism or~~
~~other condition found to be closely related to or similar to one of~~
~~these impairments that requires similar treatment or services or is~~
~~attributable to dyslexia resulting from such impairments;~~

~~(b) has continued or can be expected to continue indefinitely; and~~

~~(c) constitutes a substantial handicap limitation to such person's~~
~~ability to function normally in society.~~

(5) "Habilitation" is the process of developing skills and abilities.

(6) "Normalization" is the process of providing services which promote
a life as much as possible like that of the rest of the community, including
living in the community and access to community resources.

(7) "Rehabilitation" is the process of improving skills or level
of adjustment to increase the person's ability to maintain satisfactory
independent or dependent functioning.

~~(8) A "substantial handicap limitation" is:~~

~~(a) a disability which results in substantial function limitation in~~
~~three (3) or more of the following areas of major life activity:~~

- ~~(i) Self-care;~~
- ~~(ii) Receptive and expressive language;~~
- ~~(iii) Learning;~~
- ~~(iv) Mobility;~~
- ~~(v) Self-direction;~~
- ~~(vi) Capacity for independent living; or~~
- ~~(vii) Economic self-sufficiency; and~~

(b) ~~±~~Reflects the need for a combination and sequence of special, interdisciplinary, or generic care, treatment or other services which are:

(i) ~~±~~Lifelong or extended duration, and

(ii) ~~±~~Individually planned and coordinated.

~~(4) "Normalization" is the process of providing services which promote a life as much as possible like that of the rest of the community, including living in the community and access to community resources.~~

~~(5) "Habilitation" is the process of developing skills and abilities.~~

~~(6) "Rehabilitation" is the process of improving skills or level of adjustment to increase the person's ability to maintain satisfactory independent or dependent functioning.~~

~~(7) "Developmental disabilities facility" means any service or group of services which provide care to the developmentally disabled on an inpatient, outpatient, residential, clinical or other programmatic basis, including sheltered workshops and adult and child development centers.~~

~~(8) "Comprehensive developmental disability system" means a system of services including, but not limited to, the following basic services with the intention of providing alternatives to institutionalization: (a) evaluation services; (b) diagnostic services; (c) treatment services; (d) individualized developmental programs; (e) extended sheltered employment and work activities; (f) recreation services; (g) domiciliary care services; (h) special living arrangements services; (i) counseling services; (j) information and referral services; (k) follow along services; and (l) transportation services.~~

SECTION 28. That Section 39-4803, Idaho Code, be, and the same is hereby amended to read as follows:

39-4803. IMMUNIZATION REGISTRY. (1) The department of health and welfare shall provide for the establishment of a voluntary registry of the immunization status of Idaho children against childhood diseases. The registry may be maintained and its data disclosed as set out herein to further the following purposes:

(a) To make immunizations readily available to every Idaho citizen that desires to have their child immunized;

(b) To increase the voluntary immunization rate in Idaho to the maximum extent possible without mandating such immunizations;

(c) To recognize and respect the rights of parents and guardians to make health care decisions for their children;

(d) To provide for timely reminders to parents of children in the registry.

(2) The name of a child or information relating to the immunization status of that child may be collected or included in the registry only upon the separate and specific written authorization of a parent, guardian or other person legally responsible for the care of the child. Such authorization may not be part of a general authorization or release. The registry may contain only the following information for each child:

(a) The child's name, address and birth date;

(b) The name and address of each parent of the child;

1 (c) The month, day, year and type of each immunization that has been
2 administered to the child;

3 (d) The name, address and phone number of each provider that has
4 administered an immunization to the child;

5 (e) If requested by a parent or guardian, any statement made pursuant to
6 subsection (4) of this section;

7 (f) Other information as authorized or requested by a parent or
8 guardian.

9 (3) The department of health and welfare may only disclose information
10 relating to an individual child in the registry to the following upon a
11 specific request:

12 (a) Employees of the health district in which the child resides or seeks
13 medical services;

14 (b) Health records staff of the school or school district in which the
15 child is enrolled;

16 (c) The operator of a licensed child care facility in which the child is
17 enrolled;

18 (d) Persons who are legally responsible for the long-term care of the
19 child, including operators of licensed ICF/~~MR's~~ ID's and residential or
20 assisted living facilities, adoptive and foster parents and a guardian
21 appointed pursuant to chapter 5, title 15, Idaho Code;

22 (e) Any health care provider rendering treatment to the child, and the
23 provider's agents;

24 (f) Any person possessing a lawful release, properly executed by the
25 child's parent or guardian;

26 (g) A parent of the child;

27 (h) Any hospital where the child is receiving care.

28 (4) A parent or guardian of the child shall have free and open access to
29 all information in the registry that relates to their child or themselves.
30 Upon the written request of a parent or guardian, the department of health
31 and welfare shall:

32 (a) Cause all information relating to the child to be removed from the
33 registry and any databases or files of other entities or persons to
34 which information in the database has been disclosed;

35 (b) Include in the registry the statement of a physician or parent
36 pursuant to section 39-4802(2) or 39-1118(2), Idaho Code.

37 (5) All information contained in the registry or disclosed from it is
38 confidential and may not be sold and may only be disclosed as specifically
39 authorized in this section. A person or entity to whom information is
40 disclosed from the registry may not thereafter disclose it to others. Any
41 person who discloses or authorizes disclosure of any information contained
42 in the registry, except as authorized in this section is guilty of a
43 misdemeanor and is liable for civil damages in the amount of one hundred
44 dollars (\$100) for each violation.

45 SECTION 29. That Section 39-5008, Idaho Code, be, and the same is hereby
46 amended to read as follows:

47 39-5008. DISCRIMINATION PROHIBITED. No person shall, on the ground of
48 sex, age, race, color, religion, national origin or ~~handicap~~ disability, be
49 excluded from participating in, be denied the benefits of, or be subjected

1 to discrimination under any program or activity made available under this
2 chapter.

3 SECTION 30. That Section 39-5102, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 39-5102. DEFINITIONS. As used in this chapter:

6 (1) "Department" means the Idaho department of health and welfare.

7 (2) "Developmental disability" means a chronic disability of an
8 individual which appears before the age of twenty-two (22) years of age and:

9 (a) Is attributable to an impairment, such as ~~mental retardation~~
10 intellectual disability, cerebral palsy, epilepsy, autism or a
11 condition found to be closely related to or similar to one (1) of
12 these impairments that requires similar treatment or services, or is
13 attributable to dyslexia resulting from such impairments; and

14 (b) Results in substantial functional limitations in three (3) or more
15 of the following areas of major life activity: self-care, receptive and
16 expressive language, learning, mobility, self-direction, capacity for
17 independent living, or economic self-sufficiency; and

18 (c) Reflects the need for a combination and sequence of special,
19 interdisciplinary treatment or other services which are of lifelong or
20 extended duration and individually planned and coordinated.

21 (3) "Director" means the director of the Idaho department of health and
22 welfare.

23 (4) "Family" means a group of interdependent persons residing in the
24 same household and includes an individual with a developmental disability
25 and one (1) or more of the following:

26 (a) A birth or adoptive mother or father, stepparent, brother, sister
27 or any combination; or

28 (b) Extended blood relatives, such as a grandparent, aunt, uncle,
29 nephew or niece; or

30 (c) Legal guardian.

31 The term "family" does not include paid providers of care.

32 (5) "In-home assistance application" means a written document
33 describing the needs of an individual with developmental disabilities and
34 specifying the services or supports required.

35 (56) "Institution" means any public or private residential facility
36 which is licensed in the state of Idaho for the purpose of providing care and
37 treatment for individuals with developmental disabilities.

38 ~~(6) "Family" means a group of interdependent persons residing in the~~
39 ~~same household and includes an individual with a developmental disability~~
40 ~~and one (1) or more of the following:~~

41 ~~(a) A birth or adoptive mother or father, stepparent, brother, sister~~
42 ~~or any combination; or~~

43 ~~(b) Extended blood relatives, such as a grandparent, aunt, uncle,~~
44 ~~nephew or niece; or~~

45 ~~(c) Legal guardian.~~

46 ~~The term "family" does not include paid providers of care.~~

47 SECTION 31. That Section 40-1335, Idaho Code, be, and the same is hereby
48 amended to read as follows:

1 40-1335. STANDARDS FOR CURB CONSTRUCTION -- CURB RAMPS FOR ~~THE PEOPLE~~
 2 WITH PHYSICALLY HANDICAPPED DISABILITIES. (1) The standard for construction
 3 of curbs on each side of any city highway, or any connecting highway for which
 4 curbs and sidewalks have been prescribed by the appropriate governing body,
 5 shall require curb cuts or ramps at locations which allow a crossing movement
 6 at intersections. Each curb cut or ramp shall be constructed to allow
 7 reasonable access to the crosswalk for people with physically handicapped
 8 ~~persons~~ disabilities.

9 (2) Standards set for curb cuts and ramps under this section shall apply
 10 to all new curb construction and to all replacement curbs constructed at any
 11 point in a block which gives reasonable access to a crosswalk.

12 SECTION 32. That Section 41-2139, Idaho Code, be, and the same is hereby
 13 amended to read as follows:

14 41-2139. REQUIRED PROVISIONS -- COVERAGE OF DEPENDENT CHILD. There
 15 shall be a provision as follows: a policy delivered or issued for delivery in
 16 this state more than one hundred twenty (120) days after the effective date
 17 of this act under which coverage of a dependent of an insured terminates at
 18 a specified age shall, with respect to an unmarried child who is incapable
 19 of self-sustaining employment by reason of ~~mental retardation~~ intellectual
 20 disability or physical ~~handicap~~ disability and who became so incapable
 21 prior to attainment of the limiting age and who is chiefly dependent upon
 22 such insured for support and maintenance, not so terminate while the policy
 23 remains in force and the dependent remains in such condition, if the insured
 24 has within thirty-one (31) days of such dependent's attainment of the
 25 limiting age submitted proof of such dependent's incapacity as described
 26 herein. The insurer may require at reasonable intervals during the two (2)
 27 years following the child's attainment of the limiting age subsequent proof
 28 of the child's disability and dependency. After the two (2) year period,
 29 such subsequent proof may not be required more than once each year.

30 SECTION 33. That Section 41-2203, Idaho Code, be, and the same is hereby
 31 amended to read as follows:

32 41-2203. REQUIRED PROVISIONS IN GROUP POLICIES. Each such group
 33 disability insurance policy shall contain in substance the following
 34 provisions:

35 (1) A provision that, in the absence of fraud, all statements made by
 36 applicants or the ~~policy holders~~ policyholders or by an insured person shall
 37 be deemed representations and not warranties, and that no statement made
 38 for the purpose of effecting insurance shall void such insurance or reduce
 39 benefits unless contained in a written instrument signed by the ~~policy~~
 40 ~~holder~~ policyholder or the insured person, a copy of which has been furnished
 41 to such ~~policy holder~~ policyholder or to such person or his beneficiary.

42 (2) A provision that the insurer will furnish to the ~~policy holder~~
 43 policyholder for delivery to each employee or member of the insured group,
 44 a statement in summary form of the essential features of the insurance
 45 coverage of such employee or member and to whom benefits thereunder
 46 are payable. If dependents are included in the coverage, only one (1)
 47 certificate need be issued for each family unit.

1 (3) A provision that to the group originally insured may be added from
 2 time to time eligible new employees or members or dependents, as the case may
 3 be, in accordance with the terms of the policy.

4 (4) A provision that, a policy delivered or issued for delivery in
 5 this state more than one hundred twenty (120) days after the effective date
 6 of this act under which coverage of a dependent of a member of an insured
 7 group terminates at a specified age shall, with respect to an unmarried
 8 child who is incapable of self-sustaining employment by reason of ~~mental~~
 9 ~~retardation~~ intellectual disability or physical ~~handicap~~ disability and
 10 who became so incapable prior to attainment of the limiting age and who
 11 is chiefly dependent upon such member for support and maintenance, not so
 12 terminate while the policy remains in force and the dependent remains in such
 13 condition, if the member has within thirty-one (31) days of such dependent's
 14 attainment of the limiting age submitted proof of such dependent's
 15 incapacity as described herein. The insurer may require at reasonable
 16 intervals during the two (2) years following the child's attainment of the
 17 limiting age subsequent proof of the child's disability and dependency.
 18 After the two (2) year period, such subsequent proof may not be required more
 19 than once each year.

20 SECTION 34. That Section 41-3436, Idaho Code, be, and the same is hereby
 21 amended to read as follows:

22 41-3436. DEPENDENT'S COVERAGE -- DEPENDENT'S TERMINATION OF
 23 COVERAGE, DISABILITY AND DEPENDENCY PROOF AND APPLICATION. (1) Any new
 24 or renewing subscriber contract delivered or issued for delivery in this
 25 state shall provide that an unmarried child under the age of twenty-five (25)
 26 years and who receives more than one-half (1/2) of his financial support
 27 from the parent shall be permitted to remain on the parent's or parents'
 28 contract. Further, any unmarried child of any age who is medically certified
 29 as disabled and financially dependent upon the parent is permitted to remain
 30 on the parent's or parents' contract.

31 (2) There shall be a provision that a subscriber's contract delivered
 32 or issued for delivery in this state more than one hundred twenty (120) days
 33 after the effective date of this act under which coverage of a dependent
 34 of a subscriber terminates at a specified age shall, with respect to an
 35 unmarried child who is incapable of self-sustaining employment by reason of
 36 ~~mental retardation~~ intellectual disability or physical ~~handicap~~ disability
 37 and who became so incapable prior to attainment of the limiting age and
 38 who is chiefly dependent upon such member for support and maintenance,
 39 not to terminate while the contract remains in force and the dependent
 40 remains in such condition, if the member has within thirty-one (31) days
 41 of such dependent's attainment of the limiting age submitted proof of such
 42 dependent's incapacity as described herein. The service corporation may
 43 require at reasonable intervals during the two (2) years following the
 44 child's attainment of the limiting age subsequent proof of the child's
 45 disability and dependency. After the two (2) year period, such subsequent
 46 proof may not be required more than once each year.

47 SECTION 35. That Section 49-114, Idaho Code, be, and the same is hereby
 48 amended to read as follows:

1 49-114. DEFINITIONS -- M. (1) "Major component part" means a rear
 2 clip, cowl, frame or inner structure forward of the cowl, body, cab, front
 3 end assembly, front clip or such other part which is critical to the safety of
 4 the vehicle.

5 (2) "Manifest" means a form used for identifying the quantity,
 6 composition, origin, routing, waste or material identification code
 7 and destination of hazardous material or hazardous waste during any
 8 transportation within, through, or to any destination in this state.

9 (3) "Manufactured home." (See section 39-4105, Idaho Code)

10 (4) "Manufacturer" means every person engaged in the business of
 11 constructing or assembling vehicles of a type required to be registered at
 12 an established place of business in this state. The term, for purposes of
 13 sections 49-1613 through 49-1615, 49-1617, 49-1622 and 49-1623, Idaho Code,
 14 shall include a distributor and other factory representatives.

15 (5) "Manufacturer's year designation" means the model year designated
 16 by the vehicle manufacturer, and not the year in which the vehicle is, in
 17 fact, manufactured.

18 (6) "Maximum gross weight" means the scale weight of a vehicle,
 19 equipped for operation, to which shall be added the maximum load to be
 20 carried as declared by the owner in making application for registration.
 21 When a vehicle against which a registration fee is assessed is a combination
 22 of vehicles, the term "maximum gross weight" means the combined maximum
 23 gross weights of all vehicles in the combination.

24 (7) "Metal tire." (See "Tires," section 49-121, Idaho Code)

25 (8) "Mileage" means actual distance that a vehicle has traveled.

26 (9) "Moped" means a limited-speed motor-driven cycle having:

27 (a) Both motorized and pedal propulsion that is not capable of
 28 propelling the vehicle at a speed in excess of thirty (30) miles per
 29 hour on level ground, whether two (2) or three (3) wheels are in contact
 30 with the ground during operation. If an internal combustion engine is
 31 used, the displacement shall not exceed fifty (50) cubic centimeters
 32 and the moped shall have a power drive system that functions directly or
 33 automatically without clutching or shifting by the operator after the
 34 drive system is engaged; or

35 (b) Two (2) wheels or three (3) wheels with no pedals, which is powered
 36 solely by electrical energy, has an automatic transmission, a motor
 37 which produces less than two (2) gross brake horsepower, is capable of
 38 propelling the device at a maximum speed of not more than thirty (30)
 39 miles per hour on level ground and as originally manufactured, meets
 40 federal motor vehicle safety standards for motor-driven cycles. A
 41 moped is not required to be titled and no motorcycle endorsement is
 42 required for its operator.

43 (10) "Motorbike" means a vehicle as defined in section 67-7101, Idaho
 44 Code. Such vehicle shall be titled and may be approved for motorcycle
 45 registration pursuant to section 49-402, Idaho Code, upon certification by
 46 the owner of the installation and use of conversion components that make the
 47 motorbike compliant with federal motor vehicle safety standards.

48 (11) "Motorcycle" means every motor vehicle having a seat or saddle
 49 for the use of the rider and designed to travel on not more than three (3)
 50 wheels in contact with the ground that meets the federal motor vehicle safety

standards as originally designed, and includes a converted motorbike, but does not include a motor-driven cycle, a motorbike, a tractor or a moped.

(12) "Motor carrier" means an individual, partnership, corporation or other legal entity engaged in the transportation by motor vehicle of persons or property in the furtherance of a business or for hire.

(13) "Motor-driven cycle" means a cycle with a motor that produces five (5) brake horsepower or less as originally manufactured that meets federal motor vehicle safety standards as originally designed, and does not include mopeds. Such vehicle shall be titled and a motorcycle endorsement is required for its operation.

(14) "Motor home" means a vehicular unit designed to provide temporary living quarters, built into an integral part or permanently attached to a self-propelled motor vehicle chassis. The vehicle must contain permanently installed independent life support systems which meet the National Fire Protection Association (NFPA) 1192 Standard on Recreational Vehicles, and provide at least four (4) of the following facilities: cooking, refrigeration or icebox, self-contained toilet, heating and/or air conditioning, a potable water supply system, including a faucet and sink, separate 110-125 volt electrical power supply and/or LP-gas supply.

(15) "Motorized wheelchair" means a motor vehicle with a speed not in excess of eight (8) miles per hour, designed for and used by a ~~handicapped~~ person with a disability.

(16) "Motor number." (See "Identifying number," section 49-110, Idaho Code)

(17) "Motor vehicle." (See "Vehicle," section 49-123, Idaho Code)

(18) "Motor vehicle liability policy" means an owner's or operator's policy of liability insurance, certified as provided in section 49-1210, Idaho Code, as proof of financial responsibility, and issued by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named therein as insured.

(19) "Motor vehicle record" means any record that pertains to a motor vehicle registration, motor vehicle title or identification documents or other similar credentials issued by the department or other state or local agency.

SECTION 36. That Section 50-460, Idaho Code, be, and the same is hereby amended to read as follows:

50-460. ASSISTANCE TO VOTER. If any registered elector, who is unable by reason of physical ~~disability~~ or other ~~handicap~~ disability to record his vote by personally marking his ballot and who desires to vote, then and in that case such elector shall be assisted by the person of his choice or by one (1) of the election clerks. Such clerk or selected person shall mark the ballot in the manner directed by the elector and fold it properly and present it to the elector before leaving the voting compartment or area provided for such purpose. The elector shall then present the ballot to the judge of election in the manner provided above. If any registered elector is unable, due to physical ~~disability~~ or other ~~handicap~~ disability, to enter the polling place, he may be handed a ballot outside the polling place but within forty (40) feet thereof by one (1) of the election clerks, and in his

1 presence but in a secret manner, mark and return the same to such election
2 officer who shall proceed as provided by law to record the ballot.

3 SECTION 37. That Section 54-903, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 54-903. GENERAL DEFINITIONS. As used in this chapter:

6 (1) "Association" means the Idaho state dental association and the
7 Idaho dental hygienists' association.

8 (2) "Board" means the state board of dentistry.

9 (3) "Conviction" or "convicted" means a finding of guilt by a judge
10 or jury, an entry of a guilty plea by a defendant and its acceptance by
11 the court, a forfeiture of a bail bond or collateral deposited to secure a
12 defendant's appearance, a judgment of conviction, a suspended sentence,
13 probation, or a withheld judgment.

14 (4) "Dental assistant" is a person who need not be licensed under
15 this chapter, but who is regularly employed by a dentist at his office,
16 who works under the dentist's supervision, and is adequately trained and
17 qualified according to standards established by the board to perform the
18 dental services permitted to be performed by assistants by this chapter and
19 applicable rules of the board.

20 (5) "Dental hygienist" is a person both qualified and licensed by the
21 laws of Idaho to practice dental hygiene.

22 (6) "Dental specialist" is a dentist who limits his practice to a
23 specialty recognized by the American dental association, who has graduated
24 from a board-approved postgraduate program in his specialty and is a person
25 both qualified and licensed by the laws of Idaho to practice a dental
26 specialty.

27 (7) "Dentist" is a person both qualified and licensed by the laws of
28 Idaho to practice dentistry.

29 (8) "Direct supervision" is supervision of a dental assistant or dental
30 hygienist requiring that a dentist diagnose the condition to be treated,
31 a dentist authorize the procedure to be performed, a dentist remain in the
32 dental office while the procedure is performed, and that before dismissal of
33 the patient, a dentist approves the work performed by the dental assistant
34 or dental hygienist.

35 (9) "Extended access oral health care program" means and includes
36 dental and dental hygiene treatment and services provided as part of a
37 program conducted by or through a local, county, state or federal agency,
38 hospital, long-term care facility, public health district, dental or dental
39 hygiene school, tribal clinic, or migrant health center; or such other oral
40 health care program approved on an annual basis by the board and conducted
41 by or through a public or private entity, recognized under section 501(c)(3)
42 of the federal Internal Revenue Code, to provide free or reduced fee dental
43 and dental hygiene services to persons who, due to age, infirmity, ~~handicap,~~
44 indigence or disability, are unable to receive regular dental and dental
45 hygiene treatment in a private office.

46 (10) "General supervision" is supervision of a dental assistant or
47 dental hygienist requiring that a dentist authorize the procedure which
48 is carried out, but not requiring that a dentist be in the office when the
49 authorized procedure is performed.

(11) "Indirect supervision" is supervision of a dental assistant or dental hygienist requiring that a dentist authorize a procedure and that a dentist be in the dental office while the procedure is performed by the assistant or hygienist.

SECTION 38. That Section 54-935, Idaho Code, be, and the same is hereby amended to read as follows:

54-935. VOLUNTEER'S LICENSE -- QUALIFICATIONS -- PERMISSIBLE PRACTICE -- IMMUNITY FROM LIABILITY. (1) Upon application and qualification, the board may issue, without examination, a volunteer's license to a dentist or dental hygienist who is retired from the active practice of dentistry or dental hygiene to enable the retired dentist or dental hygienist to provide dental or dental hygiene services at specified locations to persons who, due to age, infirmity, ~~handicap~~, indigence or disability, are unable to receive regular dental treatment.

(2) For purposes of this section, a dentist or dental hygienist previously holding a dental or dental hygiene license with active status in Idaho or another state shall be considered to be retired if, prior to the date of application for a volunteer's license, he has surrendered or allowed his license with active status to expire with the intention of ceasing to actively practice as a dentist or dental hygienist for remuneration, he has converted his license with active status to a license with inactive status with the intention of ceasing to actively practice as a dentist or dental hygienist for remuneration, or he has converted his license with active or inactive status to a license with retirement or similar status that proscribed the active practice of dentistry or dental hygiene. A dentist or dental hygienist whose dental or dental hygiene license had been restricted, suspended, revoked, surrendered, resigned, converted, or allowed to lapse or expire as the result of disciplinary action or in lieu of disciplinary action being taken shall not be eligible for a volunteer's license.

(3) An application for a volunteer's license shall include, but not be limited to, the following:

(a) Verification of graduation from a dental or dental hygiene school accredited by the Commission on Dental Accreditation of the American Dental Association as of the date of the applicant's graduation;

(b) Verification from each state board in which the applicant was licensed that the applicant maintained his dental or dental hygiene license in good standing without disciplinary action that restricted the applicant's license or resulted in the applicant's license being placed on probation, suspended, revoked or being surrendered, resigned or otherwise allowed to lapse or expire in lieu of disciplinary action;

(c) Verification that the applicant held a dental or dental hygiene license in good standing in Idaho or another state as of the date upon which the dentist or dental hygienist became retired;

(d) Verification that the applicant held an active status dental or dental hygiene license in good standing in Idaho or another state within five (5) years of the date of application for a volunteer's license, provided, that the board may waive the five (5) year requirement in the event that the applicant demonstrates he possesses the knowledge and skills requisite to the practice of dentistry or dental hygiene by

1 successfully completing such examinations as are required by the board;
2 and

3 (e) A notarized statement from the applicant on a form prescribed by the
4 board, that the applicant will not provide any dental or dental hygiene
5 services to any person or at any location other than as permitted by
6 this section and that the applicant will not accept any amount or form
7 of remuneration, other than as reimbursement for the amount of actual
8 expenses incurred as a volunteer dentist or dental hygienist, for any
9 dental or dental hygiene services provided under the authority of a
10 volunteer's license.

11 (4) For purposes of this section, the specified locations at which
12 a dentist or dental hygienist holding a volunteer's license may provide
13 dental or dental hygiene services shall be limited to the premises or
14 sites of extended access oral health care programs. The dental services
15 provided at an extended access oral health care program by a dentist holding
16 a volunteer's license shall not require or include the administration of
17 general anesthesia or conscious sedation to a patient unless otherwise
18 specifically approved in advance by the board.

19 (5) A volunteer's license shall be valid for that period specified for
20 dentists and dental hygienists in section 54-920, Idaho Code, and may be
21 renewed upon application of the licensee unless the license has been revoked
22 in accordance with this section. The board shall maintain a register of all
23 dentists and dental hygienists who hold a volunteer's license. The board
24 shall not charge an application or licensing fee for issuing or renewing a
25 volunteer's license. A volunteer's license cannot be converted to a license
26 with active, inactive, provisional or special status.

27 (6) The board may revoke a volunteer's license upon receiving proof
28 satisfactory to the board that the holder of a volunteer's license provided
29 dental or dental hygiene services outside the permissible scope of the
30 volunteer's license or that grounds existed for enforcement or disciplinary
31 action against the holder of a volunteer's license under other sections of
32 this chapter or the administrative rules promulgated under this chapter.

33 (7) When practicing dentistry or dental hygiene within the permissible
34 scope of a volunteer's license, the holder of a volunteer's license issued
35 pursuant to this section shall be immune from liability for any civil action
36 arising out of the provision of volunteer dental or dental hygiene services.
37 This section does not provide or extend immunity to a holder of a volunteer's
38 license for any acts or omissions constituting negligence.

39 SECTION 39. That Section 54-1841, Idaho Code, be, and the same is hereby
40 amended to read as follows:

41 54-1841. VOLUNTEER'S LICENSE -- QUALIFICATIONS. (1) Upon application
42 and qualification, the board may issue, without examination, a volunteer's
43 license to a physician who is retired from the active practice of medicine
44 and surgery or osteopathic medicine and surgery to enable the retired
45 physician to provide medical services to persons who, due to age, infirmity,
46 ~~handicap~~, indigence or disability, are unable to receive regular medical
47 treatment.

48 (2) (a) For purposes of this section, a physician previously holding
49 a license to practice medicine and surgery, osteopathic medicine

1 and surgery or osteopathic medicine with active status in Idaho or
 2 another state shall be considered to be retired if, prior to the date of
 3 application for a volunteer's license:

4 (i) He has surrendered or allowed his license with active status
 5 to expire with the intention of ceasing to actively practice as a
 6 physician for remuneration;

7 (ii) He has converted his license with active status to a license
 8 with inactive status with the intention of ceasing to actively
 9 practice as a physician for remuneration; or

10 (iii) He has converted his license with active or inactive status
 11 to a license with retirement or similar status that proscribed the
 12 active practice of medicine and surgery or osteopathic medicine
 13 and surgery.

14 (b) A physician whose license had been restricted, suspended, revoked,
 15 surrendered, resigned, converted, or allowed to lapse or expire as the
 16 result of disciplinary action or in lieu of disciplinary action being
 17 taken shall not be eligible for a volunteer's license.

18 (3) An application for a volunteer's license shall include, but not be
 19 limited to, the following:

20 (a) Verification of graduation from an acceptable school of medicine or
 21 an acceptable osteopathic school of medicine;

22 (b) Verification from each state board in which the applicant was
 23 licensed that the applicant maintained his license in good standing
 24 without disciplinary action that restricted the applicant's license
 25 or resulted in the applicant's license being placed on probation,
 26 suspended, revoked or being surrendered, resigned or otherwise allowed
 27 to lapse or expire in lieu of disciplinary action;

28 (c) Verification that the applicant held a license in good standing in
 29 Idaho or another state as of the date upon which the physician became
 30 retired;

31 (d) Verification that the applicant held an active status license in
 32 good standing in Idaho or another state within five (5) years of the
 33 date of application for a volunteer's license, provided, that the board
 34 may waive the five (5) year requirement in the event that the applicant
 35 demonstrates that he possesses the knowledge and skills requisite
 36 to the practice of medicine and surgery or osteopathic medicine and
 37 surgery by successfully completing such examinations as are required by
 38 the board; and

39 (e) A notarized statement from the applicant on a form prescribed by
 40 the board, that the applicant will not provide any physician services
 41 to any person other than those permitted by the license and that the
 42 applicant will not accept any amount or form of remuneration, other
 43 than as reimbursement for the amount of actual expenses incurred as
 44 a volunteer physician, for any physician services provided under the
 45 authority of a volunteer's license.

46 (4) A volunteer's license shall be valid for that period specified
 47 for physicians in section 54-1808, Idaho Code, and may be renewed upon
 48 application of the licensee unless the license has been revoked in
 49 accordance with this section. The board shall maintain a register of all
 50 physicians who hold a volunteer's license. The board shall not charge an

1 application or licensing fee for issuing or renewing a volunteer's license.
 2 A volunteer's license cannot be converted to a license with active, inactive
 3 or temporary status.

4 (5) The board may revoke a volunteer's license upon receiving
 5 proof satisfactory to the board that grounds existed for enforcement or
 6 disciplinary action against the holder of a volunteer's license under other
 7 sections of this chapter or the administrative rules promulgated under this
 8 chapter.

9 SECTION 40. That Section 54-3401, Idaho Code, be, and the same is hereby
 10 amended to read as follows:

11 54-3401. DEFINITIONS. As used in this chapter:

12 (1) "Board" means the Idaho state licensing board of professional
 13 counselors and marriage and family therapists.

14 (2) "Bureau chief" means the chief of the bureau of occupational
 15 licenses of the state of Idaho.

16 (3) "Department" means the department of self-governing agencies of
 17 the state of Idaho.

18 (4) "Licensed associate marriage and family therapist" means any
 19 person licensed under this chapter as an associate marriage and family
 20 therapist to practice marriage and family therapy under supervision as set
 21 forth in this chapter.

22 (5) "Licensed marriage and family therapist" means any person licensed
 23 under this chapter to practice marriage and family therapy as defined in this
 24 chapter.

25 (6) "Licensed professional counselor" means any person licensed under
 26 this chapter to practice professional counseling as defined in this chapter.

27 (7) "Marriage and family therapy" means the evaluation and treatment of
 28 mental and emotional disorders, whether cognitive, affective or behavioral,
 29 within the context of marriage and family systems. Marriage and family
 30 therapy includes the professional application of psychotherapeutic and
 31 family systems theories and techniques in the delivery of services to
 32 individuals, couples and families for the purpose of treating nervous and
 33 mental disorders.

34 (8) "Practice of marriage and family therapy" means the rendering of
 35 professional marriage and family therapy services to individuals, couples
 36 and families, singly or in groups, whether such services are offered
 37 directly to the general public or through organizations, either public or
 38 private. A licensed associate marriage and family therapist shall only
 39 practice marriage and family therapy under supervision as established in
 40 this chapter and rules of the board.

41 (9) "Practice of professional counseling" means the application of
 42 mental health, psychological, and human development principles in order
 43 to facilitate human development and adjustment throughout the life span;
 44 prevent, assess, and treat mental, emotional or behavioral disorders
 45 and associated distresses which interfere with mental health; conduct
 46 assessments for the purpose of establishing treatment goals and objectives;
 47 and plan, implement and evaluate treatment plans using counseling treatment
 48 interventions. "Counseling treatment interventions" means the application
 49 of cognitive, affective, behavioral, and systemic counseling strategies,

1 which include principles of development, wellness and pathology that
 2 reflect a pluralistic society. Such interventions are specifically
 3 implemented in the context of a professional counseling relationship.

4 The practice of professional counseling includes, but is not limited
 5 to:

- 6 (a) Individual, group, marriage and family counseling and therapy;
- 7 (b) Assessment;
- 8 (c) Crisis intervention;
- 9 (d) Treatment of persons with mental and emotional disorders;
- 10 (e) Guidance and consulting to facilitate normal growth and
- 11 development, including educational and career development;
- 12 (f) Utilization of functional assessment and counseling for persons
- 13 requesting assistance in adjustment to a disability ~~or handicapping~~
- 14 ~~condition;~~
- 15 (g) Consulting;
- 16 (h) Research; and
- 17 (i) Referral.

18 The use of specific methods, techniques, or modalities within
 19 the practice of professional counseling is restricted to professional
 20 counselors appropriately trained in the use of such methods, techniques or
 21 modalities.

22 SECTION 41. That Section 56-101, Idaho Code, be, and the same is hereby
 23 amended to read as follows:

24 56-101. DEFINITIONS. Unless the context clearly requires otherwise,
 25 the definitions in this section apply throughout this chapter and shall have
 26 the following meanings:

27 (1) "Appraisal" means the method of determining the value of the
 28 property as determined by an appraisal conducted by a member of the
 29 appraisal institute (MAI), or successor organization. The appraisal
 30 must specifically identify the values of land, building, equipment, and
 31 goodwill.

32 (2) "Assets" means economic resources of the contractor, recognized
 33 and measured in conformity with generally accepted accounting principles.

34 (3) "Bed-weighted median" is determined by arraying the average per
 35 diem cost per bed of all facilities from high to low and identifying the bed
 36 at the point in the array at which half of the beds have equal or higher per
 37 diem costs and half have equal or lower per diem costs. The identified bed
 38 is the median bed. The per diem cost of the median bed is the bed-weighted
 39 median.

40 (4) "Case mix index" is a numeric score assigned to each facility
 41 resident, based on the resident's physical and mental condition, which
 42 projects the amount of relative resources needed to provide care to the
 43 resident.

44 (5) "Depreciation" means the systematic distribution of the cost or
 45 other basis of tangible assets, less salvage, over the estimated useful life
 46 of the assets.

47 (6) "Direct care costs" consists of the following costs directly
 48 assigned to the nursing facility or allocated to the nursing facility
 49 through medicare cost finding principles:

1 (a) Direct nursing salaries which include the salaries of registered
2 nurses, licensed professional nurses, certificated nurse's aides, and
3 unit clerks; and

4 (b) Routine nursing supplies; and

5 (c) Nursing administration; and

6 (d) Direct portion of medicaid related ancillary services; and

7 (e) Social services; and

8 (f) Raw food; and

9 (g) Employee benefits associated with the direct salaries.

10 (7) "Director" means the director of the department of health and
11 welfare or the director's designee.

12 (8) "Equity" means the ~~new~~ net book value of all tangible and intangible
13 assets less the recorded value of all liabilities, as recognized and
14 measured in conformity with generally accepted accounting principles.

15 (9) "Facility" means an entity which contracts with the director
16 to provide services to recipients in a structure owned, controlled, or
17 otherwise operated by such entity, and which entity is responsible for
18 operational decisions. In conjunction with the use of the term "facility":

19 (a) ~~"Free standing"~~ Freestanding intermediate care" means an
20 intermediate care facility, as defined in and licensed under chapter
21 13, title 39, Idaho Code, which is not owned, managed, or operated by,
22 nor is otherwise a part of a hospital, as defined in section 39-1301(a),
23 Idaho Code; and

24 (b) ~~"Free standing"~~ Freestanding skilled care" means a nursing
25 facility, as defined in and licensed under chapter 13, title 39, Idaho
26 Code, which is not owned, managed, or operated by, nor is otherwise a
27 part of a hospital, as defined in section 39-1301(a), Idaho Code; and

28 (c) ~~"Free standing"~~ Freestanding special care" means a facility that
29 provides either intermediate care, or skilled care, or intermediate
30 care for ~~the mentally retarded~~ people with intellectual disabilities,
31 or any combination of either, which is not owned, managed, or operated
32 by, nor is otherwise a part of a hospital, as defined in section
33 39-1301(a), Idaho Code; and

34 (d) "Hospital-based" means a nursing or intermediate care facility, as
35 defined in and licensed under chapter 13, title 39, Idaho Code, which is
36 owned, managed, or operated by, or is otherwise a part of a hospital, as
37 defined in section 39-1301(a), Idaho Code.

38 (10) "Forced sale" is a sale required by a bankruptcy, foreclosure, the
39 provisions of a will or estate settlement pursuant to the death of an owner,
40 physical or mental incapacity of an owner which requires ownership transfer
41 to existing partner or partners, or a sale required by the ruling of a federal
42 agency or by a court order.

43 (11) "Goodwill" means the amount paid by the purchaser that exceeds the
44 net tangible assets received. The value of goodwill is derived from the
45 economic benefits that a going concern may enjoy, as compared with a new
46 one, from established relations in the related markets, with government
47 departments and other noncommercial bodies and with personal relationships.
48 These intangible assets cannot be separated from the business and sold as can
49 plant and equipment. Under the theory that the excess payment would be made
50 only if expected future earnings justified it, goodwill is often described

1 as the price paid for excess future earnings. The amortization of goodwill
2 is nonallowable, nonreimbursable expense.

3 (12) "Historical cost" means the actual cost incurred in acquiring and
4 preparing an asset for use, including feasibility studies, architect's
5 fees, and engineering studies.

6 (13) "Indirect care costs" consists of the following costs either
7 directly coded to the nursing facility or allocated to the nursing facility
8 through the medicare step-down process:

9 (a) Administrative and general care cost; and

10 (b) Activities; and

11 (c) Central services and supplies; and

12 (d) Laundry and linen; and

13 (e) Dietary ("non-raw food" costs); and

14 (f) Plant operation and maintenance (excluding utilities); and

15 (g) Medical records; and

16 (h) Employee benefits associated with the indirect salaries; and

17 (i) Housekeeping; and

18 (j) Other costs not included in direct care costs or costs exempt from
19 cost limits.

20 (14) "Interest rate limitation" means that the interest rate allowed
21 for working capital loans and for loans for major movable equipment
22 for intermediate care facilities for ~~the mentally retarded~~ people with
23 intellectual disabilities shall be the prime rate as published in the
24 western edition of the Wall Street Journal or successor publication,
25 plus one percent (1%) at the date the loan is made. All interest expense
26 greater than the amount derived by using the limitation above shall be
27 nonreimbursable; provided, however, that this interest rate limitation
28 shall not be imposed against loans or leases which were made prior to July 1,
29 1984. Said loans or leases shall be subject to the tests of reasonableness,
30 relationship to patient care and necessity.

31 (15) "Intermediate care facility for ~~the mentally retarded~~ people with
32 intellectual disabilities" means an habilitative facility designed and
33 operated to meet the educational, training, habilitative and intermittent
34 medical needs of the developmentally disabled.

35 (16) "Major movable equipment" means such items as accounting
36 machines, beds, wheelchairs, desks, furniture, vehicles, etc. The
37 general characteristics of this equipment are:

38 (a) A relatively fixed location in the building;

39 (b) Capable of being moved, as distinguished from building equipment;

40 (c) A unit cost sufficient to justify ledger control;

41 (d) Sufficient size and identity to make control feasible by means of
42 identification tags; and

43 (e) A minimum life of approximately three (3) years.

44 (17) "Medicaid" means the 1965 amendments to the social security act
45 (P.L. 89-97), as amended.

46 (18) "Minor movable equipment" includes such items as wastebaskets,
47 bedpans, syringes, catheters, silverware, mops, buckets, etc. The general
48 characteristics of this equipment are:

49 (a) In general, no fixed location and subject to use by various
50 departments of the provider's facility;

1 (b) Comparatively small in size and unit cost;

2 (c) Subject to inventory control;

3 (d) Fairly large quantity in use; and

4 (e) Generally, a useful life of approximately three (3) years or less.

5 (19) "Net book value" means the historical cost of an asset, less
6 accumulated depreciation.

7 (20) "Normalized per diem costs" refers to direct care costs that have
8 been adjusted based on the facility's case mix index for purposes of making
9 the per diem costs comparable among facilities. Normalized per diem costs
10 are calculated by dividing the facility's direct care per diem costs by its
11 facility-wide case mix index, and multiplying the result by the statewide
12 average case mix index.

13 (21) "Nursing facility inflation rate" means the most specific skilled
14 nursing facility inflation rate applicable to Idaho established by data
15 resources, inc., or its successor. If a state or regional index has not been
16 implemented, the national index shall be used.

17 (22) "Patient-day" means a calendar day of care which will include the
18 day of admission and exclude the day of discharge unless discharge occurs
19 after 3:00 p.m. or it is the date of death, except that, when admission and
20 discharge occur on the same day, one (1) day of care shall be deemed to exist.

21 (23) "Property costs" means the total of allowable interest expense,
22 plus depreciation, property insurance, real estate taxes, amortization,
23 and allowable lease/rental expense. The department may require and utilize
24 an appraisal to establish those components of property costs which are
25 identified as an integral part of an appraisal.

26 (24) "Raw food" means food used to meet the nutritional needs of the
27 residents of a facility, including liquid dietary supplements, liquid
28 thickeners, and tube feeding solutions.

29 (25) "Reasonable property insurance" means that the consideration
30 given is an amount that would ordinarily be paid by a cost-conscious buyer
31 for comparable insurance in an arm's length transaction. Property insurance
32 per licensed bed in excess of two (2) standard deviations above the mean of
33 the most recently reported property insurance costs per licensed bed of all
34 facilities in the reimbursement class as of the end of a facility's fiscal
35 year shall not be considered reasonable.

36 (26) "Recipient" means an individual determined eligible by the
37 director for the services provided in the state plan for medicaid.

38 (27) "Rural hospital-based nursing facilities" are those
39 hospital-based nursing facilities not located within a metropolitan
40 statistical area (MSA) as defined by the United States bureau of the census.

41 (28) "Urban hospital-based nursing facilities" are those
42 hospital-based nursing facilities located within a metropolitan
43 statistical area (MSA) as defined by the United States bureau of the census.

44 (29) "Utilities" means all expenses for heat, electricity, water and
45 sewer.

46 SECTION 42. That Section 56-108, Idaho Code, be, and the same is hereby
47 amended to read as follows:

48 56-108. PROPERTY REIMBURSEMENT -- FACILITIES WILL BE PAID A PROPERTY
49 RENTAL RATE, PROPERTY TAXES AND REASONABLE PROPERTY INSURANCE. The

provisions of this section shall not apply to hospital-based facilities which are subject to the provisions of section 56-120, Idaho Code, or to intermediate care facilities for ~~the mentally retarded~~ people with intellectual disabilities which are subject to the provisions of section 56-113, Idaho Code. The provisions of this section are applicable to all other facilities. The property rental rate includes compensation for major movable equipment but not for minor movable equipment. The property rental rate is paid in lieu of payment for amortization, depreciation, and interest for financing the cost of land and depreciable assets. Prior to final audit, the director shall determine an interim rate that approximates the property rental rate. The property rental rate shall be determined as follows:

(1) Except as determined pursuant to this section:

Property rental rate = ("Property base") x ("Change in building costs") x $\frac{(40 - \text{"Age of facility"})}{40}$

where:

(a) "Property base" = \$9.24 for all facilities.

(b) "Change in building costs" = 1.0 from April 1, 1985, through December 31, 1985. Thereafter "Change in building costs" will be adjusted for each calendar year to reflect the reported annual change in the building cost index for a class D building in the western region, as of September of the prior year, published by the Marshall Swift Valuation Service. However, for freestanding skilled care facilities "change in building costs" = 1.145 from July 1, 1991, through December 31, 1991. Thereafter, change in building costs for freestanding skilled care facilities will be adjusted each calendar year to reflect the reported annual change in the building cost index for a class D building in the western region, as of September of the prior year as published by the Marshall Swift Valuation Service or the consumer price index for renter's costs available in September of the prior year, whichever is greater.

(c) "Age of facility" = the director shall determine the effective age, in years, of the facility by subtracting the year in which the facility, or portion thereof, was constructed from the year in which the rate is to be applied. No facility or portion thereof shall be assigned an age of more than thirty (30) years. However, beginning July 1, 1991, for freestanding skilled care facilities, "age of facility" will be a revised age which is the lesser of the age established under other provisions of this section or the age which most closely yields the rate allowable to existing facilities as of June 30, 1991, under subsection (1) of this section. This revised age shall not increase over time.

(i) If adequate information is not submitted by the facility to document that the facility, or portion thereof, is newer than thirty (30) years, the director shall set the effective age at thirty (30) years. Adequate documentation shall include, but not be limited to, such documents as copies of building permits, tax assessors' records, receipts, invoices, building contracts, and original notes of indebtedness. The director shall compute an appropriate age for facilities when documentation is provided to reflect expenditures for building expansion or remodeling

1 prior to the effective date of this section. The computation
 2 shall decrease the age of a facility by an amount consistent with
 3 the expenditure and the square footage impacted and shall be
 4 calculated as follows:

5 1. Determine, according to indexes published by the
 6 Marshall Swift Valuation Service, the construction cost per
 7 square foot of an average class D convalescent hospital in
 8 the western region for the year in which the expansion or
 9 renovation was completed.

10 2. Multiply the total square footage of the building
 11 following the expansion or renovation by the cost per square
 12 foot to establish the estimated replacement cost of the
 13 building at that time.

14 3. The age of the building at the time of construction shall
 15 be multiplied by the quotient of total actual renovation
 16 or remodeling costs divided by replacement cost. If this
 17 number is equal to or greater than 2.0, the age of the
 18 building in years will be reduced by this number, rounded
 19 to the nearest whole number. In no case will the age be less
 20 than zero (0).

21 (ii) The director shall adjust the effective age of a facility
 22 when major repairs, replacement, remodeling or renovation
 23 initiated after April 1, 1985, would result in a change in age
 24 of at least one (1) year. Such changes shall not increase the
 25 allowable property rental rate by more than three-fourths (3/4)
 26 of the difference between the adjusted property base determined
 27 in subsections (1)(a) and (1)(b) of this section and the rental
 28 rate paid to the facility at the time of completion of such changes
 29 but before the change component has been added to said rate. The
 30 adjusted effective age of the facility will be used in future age
 31 determinations, unless modified by provisions of this chapter.

32 (iii) The director shall allow for future adjustments to the
 33 effective age of a facility or its rate to reimburse an appropriate
 34 amount for property expenditures resulting from new requirements
 35 imposed by state or federal agencies. The director shall, within
 36 twelve (12) months of verification of expenditure, reimburse the
 37 medicaid share of the entire cost of such new requirements as a
 38 one-time payment if the incurred cost for a facility is less than
 39 one hundred dollars (\$100) per bed.

40 (d) At no time shall the property rental rate, established under
 41 subsection (1) of this section, be less than that allowed in subsection
 42 (1)(c)(ii), with the rate in effect December 31, 1988, being the base.
 43 However, subsequent to the application of this paragraph, before any
 44 rate increase may be paid, it must first be offset by any rate decrease
 45 that would have been realized if the provisions of this paragraph had
 46 not been in effect.

47 (2) A "grandfathered rate" for existing facilities will be determined
 48 by dividing the audited allowable annual property costs, exclusive of taxes
 49 and insurance, for assets on hand as of January 1, 1985, by the total patient
 50 days in the period July 1, 1984, through June 30, 1985. The property rental

1 rate will be the greater of the amount determined pursuant to subsection
2 (1) of this section, or the grandfathered rate. The director shall adjust
3 the grandfathered rate of a facility to compensate the owner for the cost
4 of major repairs, replacement, expansion, remodeling and renovation
5 initiated prior to April 1, 1985, and completed after January 1, 1985,
6 but completed no later than December 31, 1985. For facilities receiving
7 a grandfathered rate making major repairs, replacement, expansion,
8 remodeling or renovation, initiated after January 1, 1986, the director
9 shall compare the grandfathered rate of the facility to the actual
10 depreciation, amortization, and interest for the current audit period
11 plus the per diem of the recognized cost of major repairs, replacement,
12 expansion, remodeling or renovation, amortized over the American hospital
13 association guideline component useful life. The greater of the two (2)
14 numbers will be allowed as the grandfathered rate. Such changes shall not
15 increase the allowable grandfathered rate by more than three-fourths (3/4)
16 of the difference between the current grandfathered rate and the adjusted
17 property base determined in subsections (1) (a) and (1) (b) of this section.

18 (3) The property rental rate per day of care paid to facilities with
19 leases signed prior to March 30, 1981, will be the sum of the annualized
20 allowed lease costs and the other annualized property costs for assets
21 on hand as of January 1, 1985, exclusive of taxes and insurance when paid
22 separately, divided by total patient days in the period June 30, 1983,
23 through July 1, 1984. Effective July 1, 1989, the director shall adjust
24 the property rental rate of a leased skilled facility under this paragraph
25 to compensate for the cost of major repairs, replacement, expansion,
26 remodeling and renovation initiated after January 1, 1985, by adding the per
27 diem of the recognized cost of such expenditures amortized over the American
28 hospital association guideline component useful life. Such addition shall
29 not increase the allowable property rental rate by more than three-fourths
30 (3/4) of the difference between the current property rental rate and the
31 adjusted property base as determined in paragraphs (a) and (b) of subsection
32 (1) of this section. Where such leases contain provisions that bind the
33 lessee to accept an increased rate, reimbursement shall be at a rate per day
34 of care which reflects the increase in the lease rate. Where such leases bind
35 the lessee to the lease and allow the rate to be renegotiated, reimbursement
36 shall be at a rate per day of care which reflects an annual increase in the
37 lease rate not to exceed the increase in the consumer price index for renters
38 costs. After the effective date of this subsection, if such a lease is
39 terminated or if the lease allows the lessee the option to terminate other
40 than by purchase of the facility, the property rental rate shall become the
41 amount determined by the formula in subsection (1) of this section as of the
42 date on which the lease is or could be terminated.

43 (4) (a) In the event of a sale, the buyer shall receive the property
44 rental rate as provided in subsection (1) of this section, except
45 under the conditions of paragraph (b) of this subsection or except in
46 the event of the first sale for a freestanding skilled care facility
47 receiving a grandfathered rate after June 30, 1991, whereupon the new
48 owner shall receive the same rate that the seller would have received at
49 any given point in time.

(b) In the event of a forced sale of a facility where the seller has been receiving a grandfathered rate, the buyer will receive a rate based upon his incurred property costs, exclusive of taxes and insurance, for the twelve (12) months following the sale, divided by the facility's total patient days for that period, or the property rental rate, whichever is higher, but not exceeding the rate that would be due the seller.

SECTION 43. That Section 56-113, Idaho Code, be, and the same is hereby amended to read as follows:

56-113. INTERMEDIATE CARE FACILITIES FOR ~~THE MENTALLY RETARDED~~ PEOPLE WITH INTELLECTUAL DISABILITIES. (1) Services provided by intermediate care facilities for ~~the mentally retarded~~ people with intellectual disabilities, with the exception of state operated facilities, shall be paid in accordance with the provisions of this section, and not as provided in any other section of this chapter, unless otherwise provided in this section. State operated facilities shall be reimbursed costs based on medicare reasonable cost provisions.

(2) Except as otherwise provided in this section, intermediate care facilities for ~~the mentally retarded~~ people with intellectual disabilities shall remain at the rate paid in state fiscal year 2009 through June 30, 2010. Thereafter, intermediate care facilities for ~~the mentally retarded~~ people with intellectual disabilities shall be reimbursed based on a prospective rate system without retrospective settlement effective October 1, 1996. In no event, shall payments to this class of facility exceed, in the aggregate, the amount which would be reimbursed using medicare cost reimbursement methods as defined in the medicare provider reimbursement manual (HCFA - pub. 15).

(3) The prospective rate shall consist of the following components:

(a) A component for reasonable property costs which shall be computed using the property rental rate methodology set forth in section 56-108, Idaho Code, with the exceptions that the base rate shall exclude major moveable equipment and grandfathered rates will not apply. The initial base rate shall be eight dollars and ninety-four cents (\$8.94) for facilities that accommodate residents in wheelchairs and five dollars and eighty-one cents (\$5.81) for facilities that cannot accommodate residents in wheelchairs. The rates shall be adjusted annually as provided in section 56-108, Idaho Code; and

(b) A component for forecasted reasonable day treatment costs which shall be subject to a per patient day limit as provided in rule; and

(c) A component for all other allowable costs as determined in accordance with department rules which shall be subject to a limitation based on a percentage of the forecasted median for such costs of intermediate care facilities for ~~the mentally retarded~~ people with intellectual disabilities, excluding state operated facilities; and

(d) A component that provides an efficiency increment payment of twenty cents (20¢) for each one dollar (\$1.00) per patient day that the facility is under the limit described in subsection (3) (c) of this section up to a maximum payment of three dollars (\$3.00) per patient day.

1 (4) The director may require retrospective settlement as provided by
2 rule in limited circumstances including, but not limited to:

3 (a) The facility fails to meet quality of care standards; or

4 (b) The facility is new or operated by a new provider, until such time as
5 a prospective rate is set; or

6 (c) The prospective rate resulted from fraud, abuse or error.

7 (5) The director shall have authority to provide by rule, exceptions to
8 the limitations described in subsection (3) of this section.

9 (6) The director shall promulgate the rules necessary to carry out the
10 provisions of this section.

11 SECTION 44. That Section 56-203, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 56-203. POWERS OF STATE DEPARTMENT. The state department shall have
14 the power to:

15 (~~a~~1) Enter into contracts and agreements with the federal government
16 through its appropriate agency or instrumentality whereby the state of Idaho
17 shall receive federal grants-in-aid or other benefits for public assistance
18 or public welfare purposes under any act or acts of congress heretofore or
19 hereafter enacted;

20 (~~b~~2) Cooperate with the federal government in carrying out the purposes
21 of any federal acts pertaining to public assistance or welfare services, and
22 in other matters of mutual concern;

23 (~~c~~3) Cooperate with county governments and other branches of
24 government and other agencies, public or private, in administering and
25 furnishing public welfare services;

26 (~~d~~4) Enter into reciprocal agreements with other states relative to
27 the provisions of public assistance and welfare services to residents and
28 nonresidents;

29 (~~e~~5) Initiate and administer public assistance and social services for
30 persons with physically or mentally handicapped disabilities;

31 (~~f~~6) Establish such requirements of residence for public assistance
32 under this act as may be deemed advisable, subject to any limitations imposed
33 in this act;

34 (~~g~~7) Define persons entitled to medical assistance in such terms as
35 will meet requirements for federal financial participation in medical
36 assistance payments;

37 (~~h~~8) Accept the legal custody of children committed to it by district
38 courts of this state under the Child Protective Act, to provide protective
39 supervision as defined therein, to place children for adoption when such
40 children are in the legal custody of the state department and are legally
41 available for adoption and to exercise consent to adoption when the
42 authority to do so is vested in the department by court order or legally
43 authorized parental relinquishment;

44 (~~i~~9) Determine the amount, duration and scope of care and services to be
45 purchased as medical assistance on behalf of needy eligible individuals;

46 (~~j~~10) Manage and operate the Idaho state school and hospital at Nampa,
47 Idaho.

SECTION 45. That Section 56-218A, Idaho Code, be, and the same is hereby amended to read as follows:

56-218A. MEDICAL ASSISTANCE LIENS DURING LIFE OF RECIPIENT. (1) The department may recover and may impose a lien against the real property of any individual prior to his death for medical assistance paid or about to be paid under this chapter on behalf of an individual:

(a) Who is an inpatient in a nursing facility, intermediate care facility for ~~the mentally retarded~~ people with intellectual disabilities, or other medical institution, if such individual is required, as a condition of receiving services in such institution under the state plan, to spend for costs of medical care all but a minimal amount of his income required for personal needs; and

(b) With respect to whom the department has determined, after notice and opportunity for hearing, that he cannot reasonably be expected to be discharged from the medical institution and to return home.

(2) No lien may be imposed on the home of an individual under subsection (1) of this section if any of the following is lawfully residing in such home:

(a) The spouse of such individual;

(b) Such individual's child under age twenty-one (21) years;

(c) Such individual's child who is blind or permanently and totally disabled as defined in 42 U.S.C. 1382c; or

(d) A sibling of such individual who holds an equity interest in such home and who was residing in such home for a period of at least one (1) year prior to the individual's admission to the medical institution.

(3) (a) The lien shall be perfected by filing in the office of the secretary of state a notice of lien pursuant to section 45-1904, Idaho Code. The notice of lien shall include, in addition to the information required by section 45-1904, Idaho Code, the amount paid or about to be paid by the department on behalf of the individual, and, if applicable, the fact that the amount of the lien may increase over time.

(b) The department shall file any notice of lien under this section within ninety (90) days of the final determination of the department, after hearing if any, required in subsection (1)(b) of this section, with the exception of property against which the department is prevented from filing a lien pursuant to subsection (2) of this section. With respect to the property described in subsection (2) of this section, the department shall file a notice of lien within ninety (90) days after the department is notified in writing that subsection (2) of this section ceases to apply to the property.

(4) Any lien imposed in accordance with subsection (1) of this section shall dissolve upon the individual's discharge from the medical institution and return home.

(5) No recovery shall be made under this section for medical assistance correctly paid except from such individual's estate as defined in subsection (4) of section 56-218, Idaho Code, and subject to subsections (1)(d), (5) and (6) of section 56-218, Idaho Code, or upon sale of the property subject to a lien and may be made only after the death of such individual's surviving spouse, if any, and only at a time:

1 (a) When he has no surviving child who is under age twenty-one (21)
 2 years, or who is blind or permanently and totally disabled as defined in
 3 42 U.S.C. 1382c; or

4 (b) In the case of a lien on an individual's home under subsection (1)
 5 of this section, when none of the following is lawfully residing in such
 6 home who has lawfully resided in such home on a continuous basis since
 7 the date of the individual's admission to the medical institution:

8 (i) A sibling of the individual, who was residing in the
 9 individual's home for a period of at least one (1) year immediately
 10 before the date of the individual's admission to the medical
 11 institution; or

12 (ii) A son or daughter of the individual, who was residing in
 13 the individual's home for a period of at least two (2) years
 14 immediately before the date of the individual's admission to the
 15 medical institution and who establishes to the satisfaction of
 16 the state that he or she provided care to such individual which
 17 permitted such individual to reside at home rather than in an
 18 institution.

19 (6) The director shall promulgate rules reasonably necessary to
 20 implement this section including, but not limited to, rules establishing
 21 undue hardship waivers, as provided in section 56-218(7), Idaho Code, and
 22 a procedure for notice and opportunity for hearing on the department's
 23 determination that an individual cannot reasonably be expected to be
 24 discharged from a medical institution and to return home.

25 SECTION 46. That Section 56-255, Idaho Code, be, and the same is hereby
 26 amended to read as follows:

27 56-255. MEDICAL ASSISTANCE PROGRAM -- SERVICES TO BE PROVIDED. (1)
 28 The department may make payments for the following services furnished by
 29 providers to participants who are determined to be eligible on the dates
 30 on which the services were provided. Any service under this section shall
 31 be reimbursed only when medically necessary and in accordance with federal
 32 law and regulation, Idaho law and department rule. Notwithstanding any
 33 other provision of this chapter, medical assistance includes the following
 34 benefits specific to the eligibility categories established in section
 35 56-254(1), (2) and (3), Idaho Code, as well as a list of benefits to which all
 36 Idaho medicaid participants are entitled, defined in subsection (5) of this
 37 section.

38 (2) Specific health benefits and limitations for low-income children
 39 and working-age adults with no special health needs include:

40 (a) All services described in subsection (5) of this section;

41 (b) Early and periodic screening, diagnosis and treatment services
 42 for individuals under age twenty-one (21) years, and treatment of
 43 conditions found; and

44 (c) Cost-sharing required of participants. Participants in the
 45 low-income children and working-age adult group are subject to the
 46 following premium payments, as stated in department rules:

47 (i) Participants with family incomes equal to or less than
 48 one hundred thirty-three percent (133%) of the federal poverty
 49 guideline are not required to pay premiums; and

- 1 (ii) Participants with family incomes above one hundred
 2 thirty-three percent (133%) of the federal poverty guideline will
 3 be required to pay premiums in accordance with department rule.
- 4 (3) Specific health benefits for persons with disabilities or special
 5 health needs include:
- 6 (a) All services described in subsection (5) of this section;
- 7 (b) Early and periodic screening, diagnosis and treatment services
 8 for individuals under age twenty-one (21) years, and treatment of
 9 conditions found;
- 10 (c) Case management services as defined in accordance with section
 11 1905(a)(19) or section 1915(g) of the social security act; and
- 12 (d) Mental health services, including:
- 13 (i) Inpatient psychiatric facility services whether in a
 14 hospital, or for persons under age twenty-two (22) years in
 15 a freestanding psychiatric facility, as permitted by federal
 16 law, in excess of those limits in department rules on inpatient
 17 psychiatric facility services provided under subsection (5) of
 18 this section;
- 19 (ii) Outpatient mental health services in excess of those limits
 20 in department rules on outpatient mental health services provided
 21 under subsection (5) of this section; and
- 22 (iii) Psychosocial rehabilitation for reduction of mental
 23 disability for children under the age of eighteen (18) years
 24 with a serious emotional disturbance (SED) and for severely and
 25 persistently mentally ill adults, aged eighteen (18) years or
 26 older, with severe and persistent mental illness;
- 27 (e) Long-term care services, including:
- 28 (i) Nursing facility services, other than services in an
 29 institution for mental diseases, subject to participant
 30 cost-sharing;
- 31 (ii) Home-based and community-based services, subject to federal
 32 approval, provided to individuals who require nursing facility
 33 level of care who, without home-based and community-based
 34 services, would require institutionalization. These services
 35 will include community supports, including an option for
 36 self-determination, which will enable individuals to have
 37 greater freedom to manage their own care; and
- 38 (iii) Personal care services in a participant's home, prescribed
 39 in accordance with a plan of treatment and provided by a qualified
 40 person under supervision of a registered nurse;
- 41 (f) Services for persons with developmental disabilities, including:
- 42 (i) Intermediate care facility services, other than such
 43 services in an institution for mental diseases, for persons
 44 determined in accordance with section 1902(a)(31) of the social
 45 security act to be in need of such care, including such services in
 46 a public institution, or distinct part thereof, for ~~the mentally~~
 47 ~~retarded~~ persons with intellectual disabilities or persons with
 48 related conditions;
- 49 (ii) Home-based and community-based services, subject to federal
 50 approval, provided to individuals who require an intermediate

care facility for ~~the mentally retarded~~ people with intellectual disabilities (ICF/MR ID) level of care who, without home-based and community-based services, would require institutionalization. These services will include community supports, including an option for self-determination, which will enable individuals to have greater freedom to manage their own care; and

(iii) Developmental services. The department shall pay for rehabilitative services, including medical or remedial services provided by a facility that has entered into a provider agreement with the department and is certified as a developmental disabilities agency by the department;

(g) Home health services, including:

(i) Intermittent or part-time nursing services provided by a home health agency or by a registered nurse when no home health agency exists in the area;

(ii) Home health aide services provided by a home health agency; and

(iii) Physical therapy, occupational therapy or speech pathology and audiology services provided by a home health agency or medical rehabilitation facility;

(h) Hospice care in accordance with section 1905(o) of the social security act;

(i) Specialized medical equipment and supplies;

(j) Medicare cost-sharing, including:

(i) Medicare cost-sharing for qualified medicare beneficiaries described in section 1905(p) of the social security act;

(ii) Medicare part A premiums for qualified disabled and working individuals described in section 1902(a)(10)(E)(ii) of the social security act;

(iii) Medicare part B premiums for specified low-income medicare beneficiaries described in section 1902(a)(10)(E)(iii) of the social security act; and

(iv) Medicare part B premiums for qualifying individuals described in section 1902(a)(10)(E)(iv) and subject to section 1933 of the social security act; and

(k) Nonemergency medical transportation.

(4) Specific health benefits for persons over twenty-one (21) years of age who have medicare and medicaid coverage include:

(a) All services described in subsection (5) of this section, other than if provided under the federal medicare program;

(b) All services described in subsection (3) of this section, other than if provided under the federal medicare program;

(c) Other services that supplement medicare coverage; and

(d) Nonemergency medical transportation.

(5) Benefits for all medicaid participants, unless specifically limited in subsection (2), (3) or (4) of this section include the following:

(a) Health care coverage including, but not limited to, basic inpatient and outpatient medical services, and including:

(i) Physicians' services, whether furnished in the office, the patient's home, a hospital, a nursing facility or elsewhere;

- 1 (ii) Services provided by a physician or other licensed
2 practitioner to prevent disease, disability and other health
3 conditions or their progressions, to prolong life, or to promote
4 physical or mental health; and
5 (iii) Hospital care, including:
6 1. Inpatient hospital services other than those services
7 provided in an institution for mental diseases;
8 2. Outpatient hospital services; and
9 3. Emergency hospital services;
10 (iv) Laboratory and x-ray services;
11 (v) Prescribed drugs;
12 (vi) Family planning services and supplies for individuals of
13 child-bearing age;
14 (vii) Certified pediatric or family nurse practitioners'
15 services;
16 (viii) Emergency medical transportation;
17 (ix) Mental health services, including:
18 1. Outpatient mental health services that are appropriate,
19 within limits stated in department rules; and
20 2. Inpatient psychiatric facility services within limits
21 stated in department rules;
22 (x) Medical supplies, equipment, and appliances suitable for use
23 in the home; and
24 (xi) Physical therapy and related services;
25 (b) Primary care case management;
26 (c) Dental services, and medical and surgical services furnished by a
27 dentist in accordance with section 1905(a) (5) (B) of the social security
28 act;
29 (d) Medical care and any other type of remedial care recognized under
30 Idaho law, furnished by licensed practitioners within the scope of
31 their practice as defined by Idaho law, including:
32 (i) Podiatrists' services;
33 (ii) Optometrists' services;
34 (iii) Chiropractors' services; and
35 (iv) Other practitioners' services, in accordance with
36 department rules;
37 (e) Services for individuals with speech, hearing and language
38 disorders, provided by or under the supervision of a speech pathologist
39 or audiologist;
40 (f) Eyeglasses prescribed by a physician skilled in diseases of the eye
41 or by an optometrist;
42 (g) Services provided by essential providers, including:
43 (i) Rural health clinic services and other ambulatory services
44 furnished by a rural health clinic in accordance with section
45 1905(1) (1) of the social security act;
46 (ii) Federally qualified health center (FQHC) services and other
47 ambulatory services that are covered under the plan and furnished
48 by an FQHC in accordance with section 1905(1) (2) of the social
49 security act;
50 (iii) Indian health services;

- 1 (iv) District health departments; and
- 2 (v) The family medicine residency of Idaho and the Idaho state
- 3 university family medicine residency;
- 4 (h) Any other medical care and any other type of remedial care
- 5 recognized under state law, specified by the secretary of the federal
- 6 department of health and human services; and
- 7 (i) Physician, hospital or other services deemed experimental are
- 8 excluded from coverage. The director may allow coverage of procedures
- 9 or services deemed investigational if the procedures or services are as
- 10 cost-effective as traditional, standard treatments.

11 SECTION 47. That the Heading for Chapter 7, Title 56, Idaho Code, be,
12 and the same is hereby amended to read as follows:

13 CHAPTER 7
14 RIGHTS OF THE BLIND AND ~~PHYSICALLY HANDICAPPED~~ PERSONS WITH PHYSICAL
15 DISABILITIES

16 SECTION 48. That Section 56-701, Idaho Code, be, and the same is hereby
17 amended to read as follows:

18 56-701. POLICY OF STATE. It is the policy of this state to encourage
19 and enable the blind, the visually ~~handicapped~~ impaired, the hearing
20 impaired, and the otherwise physically disabled to participate fully in
21 the social and economic life of the state and to engage in remunerative
22 employment.

23 SECTION 49. That Section 56-701A, Idaho Code, be, and the same is hereby
24 amended to read as follows:

25 56-701A. DEFINITIONS. As used in this chapter and chapter 58, title
26 18, Idaho Code:

27 (1) "Assistance device" means a cane or walking stick, predominantly
28 white or metallic in color, with or without red tip, or a manual or motorized
29 wheelchair or similar scooter, or other similar devices that enhance the
30 safety or mobility of a disabled person.

31 (2) "Assistance dog" means a dog that has been trained as a guide dog
32 for a blind or visually impaired person, a hearing dog for a hearing impaired
33 person, or a service dog for a physically disabled person.

34 (3) "Disabled person" means a hearing, visually or physically impaired
35 person.

36 (4) "Dog-in-training" means a dog being specifically trained to
37 develop social, environmental and other skills needed for admission to a
38 training school or other program for assistance dogs. Dogs-in-training
39 shall wear a jacket, collar, scarf or other similar article identifying it
40 as a dog-in-training.

41 (5) "Guide dog" means a dog that has been specially trained to aid a
42 particular blind or visually impaired person.

43 (6) "Hearing dog" means a dog that has been specially trained to aid a
44 particular hearing impaired person.

1 (7) "Hearing impaired person" means a person who has a hearing
 2 impairment manifested by a speech discrimination score of forty percent
 3 (40%) or more in the better ear with appropriate correction as certified
 4 by a licensed otologist, licensed audiologist, or the Idaho division of
 5 vocational rehabilitation.

6 (8) "Physically impaired person" means any person with any substantial
 7 physical disability which prevents normal participation in community or
 8 life activities as are available and participated in by persons with no such
 9 afflictions or conditions of the same age and sex.

10 (9) "Service dog" means a dog that has been specially trained to aid a
 11 particular physically disabled person with a physical disability other than
 12 sight or hearing impairment.

13 (10) "Visually impaired person" ~~or "visually handicapped person"~~
 14 means any person who is blind, totally blind, partially blind or otherwise
 15 visually ~~handicapped~~ impaired meaning such person has central visual acuity
 16 not exceeding 20/200 in the better eye, with corrected lenses, as measured by
 17 the Snellen test, or visual acuity greater than 20/200, but with a limitation
 18 in the field of vision such that the widest diameter of the visual field
 19 subtends an angle not greater than twenty (20) degrees.

20 SECTION 50. That Section 56-702, Idaho Code, be, and the same is hereby
 21 amended to read as follows:

22 56-702. RIGHT TO FULL AND FREE USE OF STREETS, HIGHWAYS, PUBLIC
 23 BUILDINGS AND PUBLIC FACILITIES. The blind, the visually ~~handicapped~~
 24 impaired, the hearing impaired, and the otherwise physically disabled have
 25 the same right as the able-bodied to the full and free use of the streets,
 26 highways, sidewalks, walkways, public buildings, public facilities, and
 27 other public places.

28 SECTION 51. That Section 56-703, Idaho Code, be, and the same is hereby
 29 amended to read as follows:

30 56-703. RIGHT TO FULL AND EQUAL ACCOMMODATIONS IN ALL COMMON CARRIERS,
 31 HOTELS, LODGING HOUSES, PLACES OF PUBLIC ACCOMMODATION OR OTHER PUBLIC
 32 PLACES. The blind, the visually ~~handicapped~~ impaired, the hearing
 33 impaired, and the otherwise physically disabled are entitled to full
 34 and equal accommodations, advantages, facilities, and privileges of all
 35 common carriers, airplanes, motor vehicles, and railroad trains, motor
 36 buses, streetcars, boats or any other public conveyances or modes of
 37 transportation, hotels, lodging places, places of public accommodations,
 38 amusement or resort, and other places to which the general public is invited,
 39 subject only to the conditions and limitations established by law and
 40 applicable alike to all persons.

41 SECTION 52. That Section 56-707, Idaho Code, be, and the same is hereby
 42 amended to read as follows:

43 56-707. RIGHT TO BE EMPLOYED IN EMPLOYMENT SUPPORTED IN WHOLE OR IN
 44 PART BY PUBLIC FUNDS -- RESTRICTION -- USE OF SICK LEAVE. (1) The blind,
 45 the visually ~~handicapped~~ impaired, the hearing impaired, and the otherwise

1 disabled shall be employed in the state service, the service of the political
 2 subdivisions of the state, in the public schools, and in all other employment
 3 supported in whole or in part by public funds on the same terms and conditions
 4 as the able-bodied, unless it is shown that the particular disability
 5 prevents the performance of the work involved.

6 (2) Persons employed as provided in subsection (1) of this section, may
 7 use accrued sick leave for the purpose of obtaining guide dogs and necessary
 8 training.

9 SECTION 53. That Section 56-802, Idaho Code, be, and the same is hereby
 10 amended to read as follows:

11 56-802. DEFINITIONS. For the purposes of this act:

12 (1) "Hard-to-place child" means a child who is difficult to place for
 13 adoption or guardianship because of ethnic background, race, color, age,
 14 sibling grouping, or physical or emotional ~~handicap~~ disability.

15 (2) "Department" means the department of health and welfare.

16 SECTION 54. That Section 56-1004A, Idaho Code, be, and the same is
 17 hereby amended to read as follows:

18 56-1004A. CRIMINAL HISTORY AND BACKGROUND CHECKS. (1) To assist in
 19 the protection of children and vulnerable adults, the legislature hereby
 20 authorizes the department of health and welfare to conduct criminal history
 21 and background checks of individuals who provide care or services to
 22 vulnerable adults or children and are identified in rule as being required to
 23 have a criminal history and background check.

24 (2) The criminal history and background check will be a
 25 fingerprint-based check of state and national records and may include
 26 information from the following:

27 (a) Statewide criminal identification bureau;

28 (b) Federal bureau of investigation (FBI);

29 (c) National crime information center;

30 (d) Statewide sex offender registry;

31 (e) Idaho transportation department driving records;

32 (f) Adult and child protection registries;

33 (g) Nurse aide registry; and

34 (h) Department of health and human services office of the inspector
 35 general list of excluded individuals and entities.

36 (3) The department of health and welfare shall promulgate rules to
 37 further define those individuals who are required to have a background check
 38 and the effective date. Each individual shall complete an application,
 39 which includes a notarized signature, on forms provided by the department.
 40 The completed application authorizes the department to obtain and release
 41 information in accordance with state and federal law. The applicant
 42 must disclose all information requested, including information on past
 43 convictions, driver's license revocations, and known adult or child
 44 protection findings. Once an application has been completed, the employer,
 45 at its discretion, may allow the individual to provide care or services
 46 prior to the individual completing fingerprinting and pending completion
 47 of the criminal history and background check by the department. The

1 department shall promulgate rules defining the time frame for submitting
 2 the application. Under no circumstances may the individual be allowed
 3 to provide care or services where the employer has reviewed the completed
 4 application and the individual has disclosed a designated crime as set forth
 5 in rule.

6 (4) The department shall review the information received from
 7 the criminal history and background check and determine whether the
 8 applicant has a criminal or other relevant record that would disqualify the
 9 individual. The department shall determine which crimes disqualify the
 10 applicant and for what period of time according to promulgated rules. The
 11 process for the check and the issuance of a clearance or denial is set forth
 12 in department rules. The applicant shall be provided an opportunity for a
 13 formal review of a denial. The department shall communicate clearance or
 14 denial to the applicant and the applicant's employer.

15 (5) Applicants are responsible for the cost of the background check
 16 except where otherwise provided by department rules.

17 (6) The department, or an employer of an applicant, who acts in
 18 reasonable reliance on the results of the criminal history and background
 19 check in making an employment decision, is immune from liability for that
 20 decision when it is based on such results.

21 (7) The department, its officers and employees are immune from
 22 liability for the consequences of including or excluding classes of
 23 individuals in the criminal history and background check process.

24 (8) Clearance through the criminal history and background check
 25 process is not a determination of suitability for employment.

26 (9) Effective until September 30, 2007, or when federal funding is
 27 no longer available, the legislature hereby authorizes the department
 28 of health and welfare to participate in a federal pilot project to
 29 conduct criminal history and background checks of providers, employees
 30 and contractors who have access to patients in long-term care settings.
 31 Long-term care facilities or providers include nursing facilities,
 32 institutional care facilities for ~~the mentally retarded~~ people with
 33 intellectual disabilities, residential or assisted living facilities,
 34 long-term care hospitals or hospitals with swing beds, and home health
 35 and hospice providers. The criminal history and background checks for the
 36 long-term care providers, employees and contractors will be funded through
 37 the federal grant at no cost to the long-term care providers, employees or
 38 contractors until September 30, 2007, or the federal funding is no longer
 39 available.

40 SECTION 55. That Section 63-701, Idaho Code, be, and the same is hereby
 41 amended to read as follows:

42 63-701. DEFINITIONS. As used in this chapter:

43 (1) "Claimant" means a person who has filed an application under
 44 section 63-602G, Idaho Code, and has filed a claim under the provisions of
 45 sections 63-701 through 63-710, Idaho Code. Except as provided in section
 46 63-702(2), Idaho Code, on January 1, or before April 15, of the year in which
 47 the claimant first filed a claim on the homestead in question, a claimant
 48 must be an owner of the homestead and on January 1 of said year a claimant must
 49 be:

1 (a) Not less than sixty-five (65) years old; or

2 (b) A child under the age of eighteen (18) years who is fatherless or
3 motherless or who has been abandoned by any surviving parent or parents;
4 or

5 (c) A widow or widower; or

6 (d) A disabled person who is recognized as disabled by the social
7 security administration pursuant to title 42 of the United States Code,
8 or by the railroad retirement board pursuant to title 45 of the United
9 States Code, or by the office of management and budget pursuant to title
10 5 of the United States Code; or

11 (e) A disabled veteran of any war engaged in by the United States,
12 whose disability is recognized as a service-connected disability
13 of a degree of ten percent (10%) or more, or who has a pension for
14 nonservice-connected disabilities, in accordance with laws and
15 regulations administered by the United States department of veterans
16 affairs; or

17 (f) A person, as specified in 42 U.S.C. 1701, who was or is entitled
18 to receive benefits because he is known to have been taken by a hostile
19 force as a prisoner, hostage or otherwise; or

20 (g) Blind.

21 (2) "Homestead" means the dwelling, owner-occupied by the claimant
22 as described in this chapter and used as the primary dwelling place of the
23 claimant and may be occupied by any members of the household as their home,
24 and so much of the land surrounding it, not exceeding one (1) acre, as is
25 reasonably necessary for the use of the dwelling as a home. It may consist
26 of a part of a multidwelling or multipurpose building and part of the land
27 upon which it is built. "Homestead" does not include personal property such
28 as furniture, furnishings or appliances, but a manufactured home may be a
29 homestead.

30 (3) "Household" means the claimant and the claimant's spouse. The
31 term does not include bona fide lessees, tenants, or roomers and boarders on
32 contract. "Household" includes persons described in subsection (8) (b) of
33 this section.

34 (4) "Household income" means all income received by the claimant and,
35 if married, all income received by the claimant's spouse, in a calendar year.

36 (5) "Income" means the sum of federal adjusted gross income as defined
37 in the Internal Revenue Code, as defined in section 63-3004, Idaho Code, and
38 to the extent not already included in federal adjusted gross income:

39 (a) Alimony;

40 (b) Support money;

41 (c) Nontaxable strike benefits;

42 (d) The nontaxable amount of any individual retirement account,
43 pension or annuity, (including railroad retirement benefits, all
44 payments received under the federal social security act except the
45 social security death benefit as specified in this subsection, state
46 unemployment insurance laws, and veterans disability pensions and
47 compensation, excluding any return of principal paid by the recipient
48 of an annuity and excluding rollovers as provided in section 402 or 403
49 of the Internal Revenue Code);

1 (e) Nontaxable interest received from the federal government or
 2 any of its instrumentalities or a state government or any of its
 3 instrumentalities;

4 (f) Worker's compensation; and

5 (g) The gross amount of loss of earnings insurance.

6 It does not include gifts from nongovernmental sources or inheritances. To
 7 the extent not reimbursed, the cost of medical care as defined in section
 8 213(d) of the Internal Revenue Code, incurred or paid by the claimant
 9 and, if married, the claimant's spouse, may be deducted from income. To
 10 the extent not reimbursed, personal funeral expenses, including prepaid
 11 funeral expenses and premiums on funeral insurance, of the claimant and
 12 claimant's spouse only, may be deducted from income up to an annual maximum
 13 of five thousand dollars (\$5,000) per claim. "Income" does not include
 14 veterans disability pensions received by a person described in subsection
 15 (1) (e) who is a claimant or a claimant's spouse if the disability pension
 16 is received pursuant to a service-connected disability of a degree of forty
 17 percent (40%) or more. "Income" does not include dependency and indemnity
 18 compensation or death benefits paid to a person described in subsection
 19 (1) of this section by the United States department of veterans affairs and
 20 arising from a service-connected death or disability. "Income" does not
 21 include lump sum death benefits made by the social security administration
 22 pursuant to 42 U.S.C. section 402(i). Documentation of medical expenses
 23 may be required by the county assessor, board of equalization and state tax
 24 commission in such form as the county assessor, board of equalization or
 25 state tax commission shall determine. "Income" shall be that received in
 26 the calendar year immediately preceding the year in which a claim is filed.
 27 Where a claimant and/or the claimant's spouse does not file a federal tax
 28 return, the claimant's and/or the claimant's spouse's federal adjusted
 29 gross income, for purposes of this section, shall be an income equivalent
 30 to federal adjusted gross income had the claimant and/or the claimant's
 31 spouse filed a federal tax return, as determined by the county assessor. The
 32 county assessor, board of equalization or state tax commission may require
 33 documentation of income in such form as each shall determine, including, but
 34 not limited to: copies of federal or state tax returns and any attachments
 35 thereto; and income reporting forms such as the W-2 and 1099.

36 For determining income for certain married individuals living apart,
 37 the provisions of sections 2(c) and 7703(b) of the Internal Revenue Code
 38 shall apply.

39 (6) "Occupied" means actual use and possession.

40 (7) "Owner" means a person holding title in fee simple or holding
 41 a certificate of motor vehicle title (either of which may be subject to
 42 mortgage, deed of trust or other lien) or who has retained or been granted a
 43 life estate or who is a person entitled to file a claim under section 63-702,
 44 Idaho Code. "Owner" shall also include any person who:

45 (a) Is the beneficiary of a revocable or irrevocable trust which is the
 46 owner of such homestead and under which the claimant or the claimant's
 47 spouse has the primary right of occupancy of the homestead; or

48 (b) Is a partner of a limited partnership, member of a limited liability
 49 company or shareholder of a corporation if such entity holds title in
 50 fee simple or holds a certificate of motor vehicle title and if the

1 person holds at least a five percent (5%) ownership in such entity, as
 2 determined by the county assessor; or

3 (c) Has retained or been granted a life estate.

4 "Owner" includes a vendee in possession under a land sale contract. Any
 5 partial ownership shall be considered as ownership for determining initial
 6 qualification for property tax reduction benefits; however, the amount
 7 of property tax reduction under section 63-704, Idaho Code, and rules
 8 promulgated pursuant to section 63-705, Idaho Code, shall be computed on the
 9 value of the claimant's partial ownership. "Partial ownership," for the
 10 purposes of this section, means any one (1) person's ownership when property
 11 is owned by more than one (1) person or where the homestead is held by an
 12 entity, as set forth in this subsection, but more than one (1) person has the
 13 right of occupancy of such homestead. A person holding either partial title
 14 in fee simple or holding a certificate of motor vehicle title together with
 15 another person but who does not occupy the dwelling as his primary dwelling
 16 place, shall not be considered an owner for purposes of this section, if such
 17 person is a cosignatory of a note secured by the dwelling in question and at
 18 least one (1) of the other cosignatories of the note occupies the dwelling
 19 as his primary dwelling place. The combined community property interests
 20 of both spouses shall not be considered partial ownership so long as the
 21 combined community property interests constitute the entire ownership of
 22 the homestead, including where the spouses are occupying a homestead owned
 23 by an entity, as set forth in this subsection, and the spouses have the
 24 primary right of occupancy of the homestead. The proportional reduction
 25 required under this subsection shall not apply to community property
 26 interests. Where title to property was held by a person who has died without
 27 timely filing a claim for property tax reduction, the estate of the deceased
 28 person shall be the "owner," provided that the time periods during which the
 29 deceased person held such title shall be attributed to the estate for the
 30 computation of any time periods under subsection (8) (a) or (8) (b) of this
 31 section.

32 (8) (a) "Primary dwelling place" means the claimant's dwelling place
 33 on January 1 or before April 15 of the year for which the claim is
 34 made. The primary dwelling place is the single place where a claimant
 35 has his true, fixed and permanent home and principal establishment,
 36 and to which whenever the individual is absent he has the intention
 37 of returning. A claimant must establish the dwelling to which the
 38 claim relates to be his primary dwelling place by clear and convincing
 39 evidence or by establishing that the dwelling is where the claimant
 40 resided on January 1 or before April 15 and:

41 (i) At least six (6) months during the prior year; or

42 (ii) The majority of the time the claimant owned the dwelling if
 43 owned by the claimant less than one (1) year; or

44 (iii) The majority of the time after the claimant first occupied
 45 the dwelling if occupied by the claimant for less than one (1)
 46 year. The county assessor may require written or other proof of
 47 the foregoing in such form as the county assessor may determine.

48 (b) Notwithstanding the provisions of paragraph (a) of this
 49 subsection, the property upon which the claimant makes application
 50 shall be deemed to be the claimant's primary dwelling place if the

claimant is otherwise qualified and resides in a care facility and does not allow the property upon which the claimant has made application to be occupied by persons paying a consideration to occupy the dwelling. Payment of utilities shall not be payment of a consideration to occupy the dwelling. A claimant's spouse who resides in a care facility shall be deemed to reside at the claimant's primary dwelling place and to be a part of the claimant's household. A care facility is a hospital, nursing facility or intermediate care facility for ~~the mentally retarded~~ people with intellectual disabilities as defined in section 39-1301, Idaho Code, or a facility as defined in section 39-3302(14), Idaho Code, or a dwelling other than the one upon which the applicant makes application where a claimant who is unable to reside in the dwelling upon which the application is made lives and receives help in daily living, protection and security.

SECTION 56. That Section 66-329, Idaho Code, be, and the same is hereby amended to read as follows:

66-329. COMMITMENT TO DEPARTMENT DIRECTOR UPON COURT ORDER -- JUDICIAL PROCEDURE. (1) Proceedings for the involuntary care and treatment of mentally ill persons by the department of health and welfare may be commenced by the filing of a written application with a court of competent jurisdiction by a friend, relative, spouse or guardian of the proposed patient, or by a licensed physician, prosecuting attorney, or other public official of a municipality, county or of the state of Idaho, or the director of any facility in which such patient may be.

(2) The application shall state the name and last known address of the proposed patient; the name and address of either the spouse, guardian, next of kin or friend of the proposed patient; whether the proposed patient can be cared for privately in the event commitment is not ordered; if the proposed patient is, at the time of the application, a voluntary patient; whether the proposed patient has applied for release pursuant to section 66-320, Idaho Code; and a simple and precise statement of the facts showing that the proposed patient is mentally ill and either likely to injure himself or others or is gravely disabled due to mental illness.

(3) Any such application shall be accompanied by a certificate of a designated examiner stating that he has personally examined the proposed patient within the last fourteen (14) days and is of the opinion that the proposed patient is: (i) mentally ill; (ii) likely to injure himself or others or is gravely disabled due to mental illness; and (iii) lacks capacity to make informed decisions about treatment, or a written statement by the applicant that the proposed patient has refused to submit to examination by a designated examiner.

(4) Upon receipt of an application for commitment, the court shall, within forty-eight (48) hours appoint another designated examiner to make a personal examination of the proposed patient or if the proposed patient has not been examined, the court shall appoint two (2) designated examiners to make individual personal examinations of the proposed patient and may order the proposed patient to submit to an immediate examination. If neither designated examiner is a physician, the court shall order a physical examination of the proposed patient. At least one (1) designated examiner

1 shall be a psychiatrist, licensed physician or licensed psychologist. The
2 designated examiners shall report to the court their findings within the
3 following seventy-two (72) hours as to the mental condition of the proposed
4 patient and his need for custody, care, or treatment by a facility. The
5 reports shall be in the form of written certificates which shall be filed
6 with the court. The court may terminate the proceedings and dismiss the
7 application without taking any further action in the event the reports of
8 the designated examiners are to the effect that the proposed patient is not
9 mentally ill or, although mentally ill, is not likely to injure himself or
10 others or is not gravely disabled due to mental illness. If the proceedings
11 are terminated, the proposed patient shall be released immediately.

12 (5) If the designated examiner's certificate states a belief that
13 the proposed patient is mentally ill and either likely to injure himself
14 or others or is gravely disabled due to mental illness, the judge of such
15 court shall issue an order authorizing any health officer, peace officer,
16 or director of a facility to take the proposed patient to a facility in
17 the community in which the proposed patient is residing or to the nearest
18 facility to await the hearing and for good cause may authorize treatment
19 during such period subject to the provisions of section 66-346(a) (4), Idaho
20 Code. Under no circumstances shall the proposed patient be detained in
21 a nonmedical unit used for the detention of individuals charged with or
22 convicted of penal offenses.

23 (6) Upon receipt of such application and designated examiners' reports
24 the court shall appoint a time and place for hearing not more than seven (7)
25 days from the receipt of such designated examiners' reports and thereupon
26 give written notice of such time and place of such hearing together with a
27 copy of the application, designated examiner's certificates, and notice
28 of the proposed patient's right to be represented by an attorney, or if
29 indigent, to be represented by a court-appointed attorney, to the applicant,
30 to the proposed patient, to the proposed patient's spouse, guardian, next of
31 kin or friend. With the consent of the proposed patient and his attorney,
32 the hearing may be held immediately. Upon motion of the proposed patient and
33 attorney and for good cause shown, the court may continue the hearing up to an
34 additional fourteen (14) days during which time, for good cause shown, the
35 court may authorize treatment.

36 (7) An opportunity to be represented by counsel shall be afforded to
37 every proposed patient, and if neither the proposed patient nor others
38 provide counsel, the court shall appoint counsel in accordance with chapter
39 8, title 19, Idaho Code, no later than the time the application is received
40 by the court.

41 (8) If the involuntary detention was commenced under this section, the
42 hearing shall be held at a facility, at the home of the proposed patient,
43 or at any other suitable place not likely to have a harmful effect on the
44 proposed patient's physical or mental health. Venue for the hearing shall
45 be in the county of residence of the proposed patient or in the county where
46 the proposed patient was found immediately prior to commencement of such
47 proceedings.

48 (9) In all proceedings under this section, any existing provision
49 of the law prohibiting the disclosure of confidential communications
50 between the designated examiner and proposed patient shall not apply and any

1 designated examiner who shall have examined the proposed patient shall be a
2 competent witness to testify as to the proposed patient's condition.

3 (10) The proposed patient, the applicant, and any other persons to whom
4 notice is required to be given shall be afforded an opportunity to appear at
5 the hearing, to testify, and to present and cross-examine witnesses. The
6 proposed patient shall be required to be present at the hearing unless the
7 court determines that the mental or physical state of the proposed patient
8 is such that his presence at the hearing would be detrimental to the proposed
9 patient's health or would unduly disrupt the proceedings. A record of the
10 proceedings shall be made as for other civil hearings. The hearing shall
11 be conducted in as informal a manner as may be consistent with orderly
12 procedure. The court shall receive all relevant and material evidence
13 consistent with the rules of evidence.

14 (11) If, upon completion of the hearing and consideration of the record,
15 and after consideration of reasonable alternatives including, but not
16 limited to, holding the proceedings in abeyance for a period of up to thirty
17 (30) days, the court finds by clear and convincing evidence that the proposed
18 patient:

19 (a) ~~±~~Is mentally ill; and

20 (b) ~~±~~Is, because of such condition, likely to injure himself or others,
21 or is gravely disabled due to mental illness;

22 the court shall order the proposed patient committed to the custody
23 of the department director for observation, care and treatment for an
24 indeterminate period of time not to exceed one (1) year. The department
25 director, through his dispositioner, shall determine within twenty-four
26 (24) hours the least restrictive available facility or outpatient
27 treatment, consistent with the needs of each patient committed under
28 this section for observation, care, and treatment.

29 (12) The commitment order constitutes a continuing authorization
30 for the department of health and welfare, law enforcement, or director
31 of a facility, upon request of the director of the outpatient facility,
32 the physician, or the department director through his dispositioner, to
33 transport a committed patient to designated outpatient treatment for the
34 purpose of making reasonable efforts to obtain the committed patient's
35 compliance with the terms and conditions of outpatient treatment. If
36 the director of the outpatient facility, the treating physician, or the
37 department director through his dispositioner determines any of the
38 following:

39 (a) The patient is failing to adhere to the terms and conditions of
40 outpatient treatment or the patient refuses outpatient treatment after
41 reasonable efforts at compliance have been made; or

42 (b) Outpatient treatment is not effective after reasonable efforts
43 have been made;

44 the department director through his dispositioner shall cause the committed
45 patient to be transported by the department of health and welfare, law
46 enforcement, or director of a facility to the least restrictive available
47 facility for observation, care and treatment on an inpatient basis.
48 Within forty-eight (48) hours of a committed patient's transfer from
49 outpatient treatment to a facility for inpatient treatment, the department
50 director through his dispositioner shall notify the court that originally

ordered the commitment, the committed patient's attorney, and either the committed patient's spouse, guardian, adult next of kin or friend of the change in disposition and provide a detailed affidavit reciting the facts and circumstances supporting the transfer from outpatient treatment to inpatient treatment at a facility. The court shall conduct an ex parte review of the notice and affidavit within forty-eight (48) hours of filing and determine whether the change in disposition from outpatient treatment to inpatient treatment at a facility is supported by probable cause. In no event shall the calculation of forty-eight (48) hours provided for in this subsection include holidays formally recognized and observed by the state of Idaho, nor shall the calculation include weekends. If the court determines that probable cause exists, the department director through his dispositioner shall continue with care and treatment on an inpatient basis at the least restrictive available facility. Within twenty-four (24) hours of a finding of probable cause, the court shall issue an order to show cause why the patient does not meet the conditions in subsection (12) (a) or (12) (b) of this section. The order shall be served on the committed patient, the committed patient's attorney and either the committed patient's spouse, guardian, adult next of kin or friend. The patient shall have fifteen (15) days to present evidence that the conditions in subsection (12) (a) or (12) (b) of this section have not been met. In no event shall the calculation of twenty-four (24) hours provided for in this subsection include holidays formally recognized and observed by the state of Idaho, nor shall the calculation include weekends. If the court determines that a change in disposition from outpatient treatment to inpatient treatment does not meet the conditions in subsection (12) (a) or (12) (b) of this section, the department director through his dispositioner will continue with outpatient treatment on the same or modified terms and conditions. Nothing provided in this section shall limit the authority of any law enforcement officer to detain a patient pursuant to the emergency authority conferred by section 66-326, Idaho Code.

(13) Nothing in this chapter or in any rule adopted pursuant thereto shall be construed to authorize the detention or involuntary admission to a hospital or other facility of an individual who:

(a) Has epilepsy, a developmental disability, a physical disability, ~~mental retardation~~ an intellectual disability, is impaired by chronic alcoholism or drug abuse, or aged, unless in addition to such condition, such person is mentally ill;

(b) Is a patient under treatment by spiritual means alone, through prayer, in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof and who asserts to any authority attempting to detain him that he is under such treatment and who gives the name of a practitioner so treating him to such authority; or

(c) Can be properly cared for privately with the help of willing and able family or friends, and provided, that such person may be detained or involuntarily admitted if such person is mentally ill and presents a substantial risk of injury to himself or others if allowed to remain at liberty.

1 (14) The order of commitment shall state whether the proposed patient
 2 lacks capacity to make informed decisions about treatment, the name and
 3 address of the patient's attorney and either the patient's spouse, guardian,
 4 adult next of kin, or friend.

5 (15) If the patient has no spouse or guardian and if the patient has
 6 property which may not be cared for pursuant to chapter 5, title 66, Idaho
 7 Code, or by the patient while confined at a facility, the court shall appoint
 8 a guardian ad litem for the purpose of preserving the patient's estate,
 9 pending further guardianship or conservatorship proceedings.

10 (16) The commitment shall continue until the commitment is terminated
 11 and shall be unaffected by the patient's conditional release or change in
 12 disposition.

13 SECTION 57. That Section 66-401, Idaho Code, be, and the same is hereby
 14 amended to read as follows:

15 66-401. LEGISLATIVE INTENT. It is hereby declared by the legislature
 16 of the state of Idaho in enacting chapter 4, title 66, Idaho Code, that
 17 the ~~developmentally handicapped~~ citizens of ~~the state~~ Idaho who have
 18 developmental disabilities are entitled to be diagnosed, cared for, and
 19 treated in a manner consistent with their legal rights in a manner no
 20 more restrictive than for their protection and the protection of society,
 21 for a period no longer than reasonably necessary for diagnosis, care,
 22 treatment and protection, and to remain at liberty or be cared for privately
 23 except when necessary for their protection or the protection of society.
 24 Recognizing that every individual has unique needs and differing abilities,
 25 it is the purpose of the provisions of this chapter to promote the general
 26 welfare of all citizens by establishing a system which permits partially
 27 disabled and disabled persons to participate as fully as possible in all
 28 decisions which affect them, which assists such persons in meeting the
 29 essential requirements for their physical health and safety, protecting
 30 their rights, managing their financial resources, and developing or
 31 regaining their abilities to the maximum extent possible. The provisions of
 32 this chapter shall be liberally construed to accomplish these purposes.

33 SECTION 58. That Section 66-402, Idaho Code, be, and the same is hereby
 34 amended to read as follows:

35 66-402. DEFINITIONS. As used in this chapter:

36 (1) "Adult" means an individual eighteen (18) years of age or older.

37 (2) "Artificial life-sustaining procedures" means any medical
 38 procedure or intervention which utilizes mechanical means to sustain or
 39 supplant a vital function. Artificial life-sustaining procedures shall
 40 not include the administration of medication, and it shall not include the
 41 performance of any medical procedure deemed necessary to alleviate pain, or
 42 any procedure which could be expected to result in the recovery or long-term
 43 survival of the patient and his restoration to consciousness.

44 (3) "Department" means the Idaho department of health and welfare.

45 (4) "Director" means the director of the department of health and
 46 welfare.

1 (5) "Developmental disability" means a chronic disability of a person
2 which appears before the age of twenty-two (22) years of age and:

3 (a) Is attributable to an impairment, such as ~~mental retardation~~
4 intellectual disability, cerebral palsy, epilepsy, autism or other
5 condition found to be closely related to or similar to one (1) of
6 these impairments that requires similar treatment or services, or is
7 attributable to dyslexia resulting from such impairments; and

8 (b) Results in substantial functional limitations in three (3) or more
9 of the following areas of major life activity: self-care, receptive and
10 expressive language, learning, mobility, self-direction, capacity for
11 independent living, or economic self-sufficiency; and

12 (c) Reflects the need for a combination and sequence of special,
13 interdisciplinary or generic care, treatment or other services which
14 are of lifelong or extended duration and individually planned and
15 coordinated.

16 (6) "Emancipated minor" means an individual between fourteen (14)
17 and eighteen (18) years of age who has been married or whose circumstances
18 indicate that the parent-child relationship has been renounced.

19 (7) "Evaluation committee" means an interdisciplinary team of at
20 least three (3) individuals designated by the director or his designee to
21 evaluate an individual as required by the provisions of this chapter. Each
22 committee must include a physician licensed to practice medicine in the
23 state of Idaho, a licensed social worker and a clinical psychologist or such
24 other individual who has a master's degree in psychology as designated by
25 the department director. Each committee member must be specially qualified
26 by training and experience in the diagnosis and treatment of persons with a
27 developmental disability.

28 (8) "Facility" means the Idaho state school and hospital, a nursing
29 facility, an intermediate care facility, an intermediate care facility for
30 ~~the mentally retarded~~ people with intellectual disabilities, a licensed
31 residential or assisted living facility, a group foster home, other
32 organizations licensed to provide twenty-four (24) hour care, treatment
33 and training to the developmentally disabled, a mental health center, or an
34 adult and child development center.

35 (9) "Lacks capacity to make informed decisions" means the inability, by
36 reason of developmental disability, to achieve a rudimentary understanding
37 of the purpose, nature, and possible risks and benefits of a decision,
38 after conscientious efforts at explanation, but shall not be evidenced by
39 improvident decisions within the discretion allowed nondevelopmentally
40 disabled individuals.

41 (10) "Likely to injure himself or others" means:

42 (a) A substantial risk that physical harm will be inflicted by the
43 respondent upon his own person as evidenced by threats or attempts to
44 commit suicide or inflict physical harm on himself; or

45 (b) A substantial risk that physical harm will be inflicted by the
46 respondent upon another as evidenced by behavior which has caused such
47 harm or which places another person or persons in reasonable fear of
48 sustaining such harm; or

49 (c) That the respondent is unable to meet essential requirements for
50 physical health or safety.

1 (11) "Manage financial resources" means the actions necessary to
 2 obtain, administer and dispose of real, personal, intangible or business
 3 property, benefits and/or income.

4 (12) "Meet essential requirements for physical health or safety" means
 5 the actions necessary to provide health care, food, clothing, shelter,
 6 personal hygiene and/or other care without which serious physical injury or
 7 illness would occur.

8 (13) "Minor" means an individual seventeen (17) years of age or less.

9 (14) "Protection and advocacy system" means the agency designated by
 10 the governor of the state of Idaho to provide advocacy services for people
 11 with disabilities pursuant to 42 USC section 6042.

12 (15) "Respondent" means the individual subject to judicial proceedings
 13 authorized by the provisions of this chapter.

14 SECTION 59. That Section 66-408, Idaho Code, be, and the same is hereby
 15 amended to read as follows:

16 66-408. PETITION FOR REEXAMINATION OF ORDER OF GUARDIANSHIP OR
 17 COMMITMENT. All respondents admitted to a residential facility upon
 18 application of their parent or guardian or committed to the director shall be
 19 entitled to an annual review of their placement by an evaluation committee
 20 upon request therefor by the respondent, the respondent's guardian or
 21 attorney. In addition, all respondents committed pursuant to section
 22 66-406, Idaho Code, or for whom an order for guardianship or conservatorship
 23 has been issued pursuant to section 66-405, Idaho Code, shall be entitled
 24 to a reexamination of the order for or conditions of their commitment,
 25 guardianship or conservatorship on their own petition, or that of their
 26 legal guardian, parent, attorney or friend, to the district court of the
 27 county in which the order was issued or in which they are found. Upon receipt
 28 of the petition, the court shall determine whether the conditions justifying
 29 the order or its conditions continue to exist. ~~Within three (3) years of~~
 30 ~~the effective date of this chapter, the department shall petition for the~~
 31 ~~reexamination of all individuals committed prior to the effective date of~~
 32 ~~this chapter as being mentally retarded or mentally deficient and whose~~
 33 ~~commitments have not been terminated.~~

34 SECTION 60. That Section 67-2319, Idaho Code, be, and the same is hereby
 35 amended to read as follows:

36 67-2319. PURCHASING PRODUCTS OF REHABILITATION FACILITIES. Products
 37 which are manufactured by and services which are provided for nonprofit
 38 corporations and public agencies operating rehabilitation facilities
 39 serving ~~the handicapped~~ people with disabilities and disadvantaged
 40 people and offered for sale at the fair market price as determined by
 41 the administrator of the division of purchasing which meet the specific
 42 requirement for such products may be procured by the state agencies or
 43 departments or any political subdivision of the state from such nonprofit
 44 corporations or public agencies without advertising or calling for bids.

45 SECTION 61. That Section 67-6530, Idaho Code, be, and the same is hereby
 46 amended to read as follows:

1 67-6530. DECLARATION OF PURPOSE. The legislature declares that it
 2 is the policy of this state that ~~mentally and/or physically handicapped~~
 3 persons with disabilities or elderly persons are entitled to live in normal
 4 residential surroundings and should not be excluded therefrom because
 5 of their disability or advanced age, and in order to achieve statewide
 6 implementation of such policy it is necessary to establish the statewide
 7 policy that the use of property for the care of eight (8) or fewer ~~mentally~~
 8 ~~and/or physically handicapped~~ persons with disabilities or elderly persons
 9 is a residential use of such property for the purposes of local zoning.

10 SECTION 62. That Section 67-6531, Idaho Code, be, and the same is hereby
 11 amended to read as follows:

12 67-6531. SINGLE FAMILY DWELLING. ~~(a1)~~ For the purpose of any zoning
 13 law, ordinance or code, the classification "single family dwelling" shall
 14 include any group residence in which eight (8) or fewer unrelated ~~mentally~~
 15 ~~and/or physically handicapped~~ persons with disabilities or elderly persons
 16 reside and who are supervised at the group residence in connection with their
 17 ~~handicap~~ disability or age related infirmity.

18 ~~(b2)~~ Resident staff, if employed, need not be related to each other
 19 or to any of the ~~mentally and/or physically handicapped~~ persons with
 20 disabilities or elderly persons residing in the group residence.

21 ~~(e3)~~ No more than two (2) of such staff shall reside in the dwelling at
 22 any one time.

23 SECTION 63. That Section 67-6532, Idaho Code, be, and the same is hereby
 24 amended to read as follows:

25 67-6532. LICENSURE, STANDARDS AND RESTRICTIONS. ~~(a1)~~ The department
 26 of health and welfare may require group residences, as defined in section
 27 67-6531, Idaho Code, to be licensed and set minimum standards for providing
 28 services or operation. Such licensure may be under the residential or
 29 assisted living facility rules, or under the intermediate care facilities
 30 for ~~mentally retarded~~ people with intellectual disabilities or related
 31 conditions rules, or under rules specifically written for such group
 32 residences.

33 ~~(b2)~~ No conditional use permit, zoning variance, or other zoning
 34 clearance shall be required of a group residence, as defined in section
 35 67-6531, Idaho Code, which is not required of a single family dwelling in the
 36 same zone.

37 ~~(e3)~~ No local ordinances or local restrictions shall be applied to or
 38 required for a group residence, as defined in section 67-6531, Idaho Code,
 39 which is not applied to or required for a single family dwelling in the same
 40 zone.

41 ~~(d4)~~ The limitations provided for in subsections ~~(b2)~~ and ~~(e3)~~ of this
 42 section shall not apply to tenancy or planned tenancy in a group residence,
 43 as defined in section 67-6531, Idaho Code, by persons who are under the
 44 supervision of the state board of correction pursuant to section 20-219,
 45 Idaho Code, or who are required to register pursuant to chapter 83 or 84,
 46 title 18, Idaho Code, or whose tenancy would otherwise constitute a direct

1 threat to the health or safety of other individuals or whose tenancy would
2 result in substantial physical damage to the property of others.

3 SECTION 64. That Section 67-6901, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 67-6901. STATEMENT OF PUBLIC POLICY. It is the policy of this state to
6 encourage and enable ~~the physically and mentally handicapped~~ people with
7 disabilities to participate fully in the social and economic life of the
8 state and to engage in remunerative employment.

9 SECTION 65. That Section 67-6902, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 67-6902. DEFINITIONS. As used in this chapter:

12 (1) ~~"Public buildings" means all county courthouses, and all city~~
13 ~~halls and buildings used primarily as governmental offices of the state~~
14 ~~or any county or city. It does not include public schools or buildings~~
15 ~~or institutions of higher education or professional technical training,~~
16 ~~buildings of the department of health and welfare, facilities of the state~~
17 ~~board of correction or the state capitol building. "Disabled" or "person~~
18 ~~with disability" means:~~

19 (a) A person who has a physical or mental impairment which
20 substantially limits one (1) or more major life activities (e.g.,
21 communication, ambulation, self-care, socialization, education,
22 vocational training, transportation or employment);

23 (b) A person who has a record of such an impairment and the impairment is
24 expected to continue indefinitely;

25 (c) A person who is regarded or treated by others as having such an
26 impairment;

27 (d) Persons including, but not limited to, persons who are blind,
28 deaf or who have epilepsy, autism, intellectual disabilities or mental
29 illness or who have orthopedic disorders or cerebral palsy.

30 (2) "Food service facilities" includes restaurants, cafeterias, snack
31 bars, and goods and services customarily offered in connection with any of
32 the foregoing, and also includes vending machines dispensing foods when
33 operated independently or in conjunction with such facilities.

34 (3) ~~"Handicapped" means:~~

35 ~~(a) A person who has a physical or mental impairment which~~
36 ~~substantially limits one (1) or more major life activities (e.g.,~~
37 ~~communication, ambulation, self care, socialization, education,~~
38 ~~vocational training, transportation or employment);~~

39 ~~(b) A person who has a record of such an impairment and the impairment is~~
40 ~~expected to continue indefinitely;~~

41 ~~(c) A person who is regarded or treated by others as having such an~~
42 ~~impairment;~~

43 ~~(d) Persons including, but not limited to, persons who are blind, deaf,~~
44 ~~epileptic, autistic, mentally retarded or mentally ill or who have~~
45 ~~orthopedic disorders or cerebral palsy.~~

46 ~~(4) "Nonprofit organization representing the handicapped persons~~
47 with disabilities" means tax exempt organizations as defined under section

501(c) (3) of the Internal Revenue Code and includes the Idaho commission for the blind and visually impaired.

(4) "Public buildings" means all county courthouses, and all city halls and buildings used primarily as governmental offices of the state or any county or city. It does not include public schools or buildings or institutions of higher education or professional-technical training, buildings of the department of health and welfare, facilities of the state board of correction or the state capitol building.

SECTION 66. That Section 67-6903, Idaho Code, be, and the same is hereby amended to read as follows:

67-6903. FOOD SERVICE FACILITIES IN PUBLIC BUILDINGS. Any governmental agency which proposes to allow, to operate or to continue a food service facility in a public building shall first attempt, in good faith, to notify nonprofit organizations representing ~~handicapped~~ persons with disabilities of the opportunity to operate a food service. If more than one (1) organization responds, the governmental agency shall establish reasonable criteria and shall select on the basis of that criteria from the proposals submitted. Criteria adopted by a governmental agency pursuant to this section, and used as a basis for selection among proposals submitted, shall include the requirement that proposals submitted by the Idaho commission for the blind and visually impaired shall have priority over all other proposals submitted. Proposals submitted by nonprofit organizations representing ~~the handicapped~~ persons with disabilities, other than the Idaho commission for the blind and visually impaired, shall receive priority over all other proposals except proposals submitted by the Idaho commission for the blind and visually impaired. A food service facility shall be operated without payment of rent. The governmental agency shall not offer or grant any other party a contract or concession to operate such food service facility unless the governmental agency determines in good faith that no nonprofit organization representing ~~handicapped~~ persons with disabilities is willing or able to provide satisfactory food service.

SECTION 67. That Section 68-1301, Idaho Code, be, and the same is hereby amended to read as follows:

68-1301. DEFINITIONS. As used in this chapter:

(1) "Adult" means an individual who is at least eighteen (18) years of age.

(2) "Beneficiary" means an individual for whom property has been transferred to or held under a declaration of trust by a custodial trustee for the individual's use and benefit under this chapter.

(3) "Conservator" means a person appointed or qualified by a court to manage the estate of an individual or a person legally authorized to perform substantially the same functions.

(4) "Court" means the district court of this state.

(5) "Custodial trust property" means an interest in property transferred to or held under a declaration of trust by a custodial trustee under this chapter and the income from and proceeds of that interest.

(6) "Custodial trustee" means a person designated as trustee of a custodial trust under this chapter or a substitute or successor to the person designated.

(7) "Guardian" means a person appointed or qualified by a court as a guardian of an individual, including a limited guardian, but not a person who is only a guardian ad litem.

(8) "Incapacitated" means lacking the ability to manage property and business affairs effectively by reason of mental illness, mental ~~deficiency~~ disability, physical illness or disability, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power, disappearance, minority, or other disabling cause.

(9) "Legal representative" means a personal representative or conservator.

(10) "Member of the beneficiary's family" means a beneficiary's spouse, descendant, stepchild, parent, stepparent, grandparent, brother, sister, uncle, or aunt, whether of the whole or half blood or by adoption.

(11) "Person" means an individual, corporation, business trust, estate, trust, partnership, joint venture, association, or any other legal or commercial entity.

(12) "Personal representative" means an executor, administrator, or special administrator of a decedent's estate, a person legally authorized to perform substantially the same functions, or a successor to any of them.

(13) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(14) "Transferor" means a person who creates a custodial trust by transfer or declaration.

(15) "Trust company" means a financial institution, corporation, or other legal entity, authorized to exercise general trust powers.

SECTION 68. That Section 68-1405, Idaho Code, be, and the same is hereby amended to read as follows:

68-1405. SPECIAL NEEDS TRUSTS -- REQUIREMENTS -- JURISDICTION OF COURT -- COURT ORDERS. (1) If a court orders that money of a minor or incompetent person be paid to a special needs trust, the terms of the trust shall be reviewed and approved by the court and shall satisfy the requirements of this section. The trust shall be subject to the continuing jurisdiction of the court, and is subject to court supervision to the extent determined by the court. The court may transfer jurisdiction to the court in the county where the minor or incompetent person resides.

(2) A special needs trust may be established and continued under this section only if the court determines all of the following:

(a) That the minor or incompetent person has a disability that substantially impairs the individual's ability to provide for the individual's own care or custody ~~and constitutes a substantial handicap;~~

(b) That the minor or incompetent person is likely to have special needs that will not be met without the trust; and

(c) That money to be paid to the trust does not exceed the amount that appears reasonably necessary to meet the special needs of the minor or incompetent person.

(3) If at any time it appears that:

(a) Any of the requirements of this section are not satisfied or the trustee refuses without good cause to make payments from the trust for the special needs of the beneficiary; and

(b) That the Idaho department of health and welfare or a county or city in this state has a claim against trust property, then the Idaho department of health and welfare, the county or the city may petition the court for an order terminating the trust.

(4) A court order for payment of money or property to a special needs trust shall include a provision that all statutory liens properly perfected at the time of the court's order, and in favor of the Idaho department of health and welfare or any county or city of this state, shall be satisfied first.

SECTION 69. That Section 71-241, Idaho Code, be, and the same is hereby amended to read as follows:

71-241. PETROLEUM PRODUCTS -- HOW SOLD -- MEASUREMENT. (1) All petroleum products shall be sold by liquid measure or by net weight in accordance with the provisions of section 71-232, Idaho Code, and in accordance with regulations to be made by the director.

(2) Sellers of motor fuel within this state shall offer to prospective purchasers the option to buy the product either by gross gallons or on the assumption that the temperature of the product is sixty degrees (60°) fahrenheit or the centigrade equivalent. This purchaser option may be exercised only on an annual basis and applied only to single deliveries of eight thousand (8,000) gallons or more or the metric equivalent. Any adjustments to volumes during the temperature compensation process shall be made in accordance with the standards set by the American society of testing materials.

(3) The department of agriculture may purchase and use measuring devices for monitoring bulk deliveries.

(4) Any retail outlet offering self-dispensed motor fuels only shall, upon request of the disabled driver, provide assistance in delivering fuel into the tank of a vehicle displaying ~~a handicapped~~ an accessible parking license or card, but this requirement shall not apply when such vehicle carries an able-bodied adult or if only one (1) attendant is on duty at the retail outlet. Disabled individuals receiving this refueling service at a self-service pump shall not be charged more than the self-service price for the fuel. Notice of the availability of this service shall be posted pursuant to the provisions of subsection (5) (b) of this section. A violation of the provisions of this subsection shall be an infraction.

(5) Any retail outlet offering both attendant-dispensed motor fuels and self-dispensed motor fuels will, during those hours that attendant-dispensed motor fuels are available, provide attendant-dispensed motor fuels at the same price as for self-dispensed motor fuels when such fuel is delivered at the self-service pump into the fuel tank of a vehicle displaying ~~a handicapped~~ an accessible parking license or card, but this requirement shall not apply when such vehicle carries an able-bodied adult.

(a) Notification of the provisions of subsections (4) and (5) of this section shall be provided, by the Idaho transportation department, to

all operators of facilities offering gasoline or other motor vehicle fuels for sale, and to every person who is issued ~~a handicapped~~ an accessible parking plate or a disabled veterans registration plate, or other authorized designation.

(b) The following notice shall be provided by the Idaho transportation department and posted in a manner and location which is visible to any driver seeking refueling service. The notice shall be a placard in substantially the following format, printed in black except that the international accessible symbol shall be printed in blue.

WHEN THERE ARE TWO OR MORE
EMPLOYEES ON DUTY
THIS STATION WILL



PUMP YOUR GAS
Idaho Code Section 71-241

SECTION 70. That Section 72-430, Idaho Code, be, and the same is hereby amended to read as follows:

72-430. PERMANENT DISABILITY -- DETERMINATION OF -- PERCENTAGES -- SCHEDULE. (1) Matters to be considered. In determining percentages of permanent disabilities, account shall be taken of the nature of the physical disablement, the disfigurement if of a kind likely to ~~handicap~~ limit the employee in procuring or holding employment, the cumulative effect of multiple injuries, the occupation of the employee, and his age at the time of accident causing the injury, or manifestation of the occupational disease, consideration being given to the diminished ability of the afflicted employee to compete in an open labor market within a reasonable geographical area considering all the personal and economic circumstances of the employee, and other factors as the commission may deem relevant, provided that when a scheduled or unscheduled income benefit is paid or payable for the permanent partial or total loss or loss of use of a member or organ of the body no additional benefit shall be payable for disfigurement.

(2) Preparation of schedules--Availability for inspection--Prima facie evidence. The commission may prepare, adopt and from time to time amend a schedule for the determination of the percentages of unscheduled permanent injuries less than total, including, but not limited to, a schedule for partial loss of binaural hearing and for loss of teeth, and methods for determination thereof. Such schedule shall be available for public inspection, and without formal introduction in evidence shall be prima facie evidence of the percentages of permanent disabilities to be attributed to the injuries or diseases covered by such schedule.

1 SECTION 71. That Section 72-1316A, Idaho Code, be, and the same is
2 hereby amended to read as follows:

3 72-1316A. EXEMPT EMPLOYMENT. "Exempt employment" means service
4 performed:

5 (1) By an individual in the employ of his spouse or child.

6 (2) By a person under the age of twenty-one (21) years in the employ of
7 his father or mother.

8 (3) By an individual under the age of twenty-two (22) years who is
9 enrolled as a student in a full-time program at an accredited nonprofit or
10 public education institution for which credit at such institution is earned
11 in a program which combines academic instruction with work experience. This
12 subsection shall not apply to service performed in a program established at
13 the request of an employer or group of employers.

14 (4) In the employ of the United States government or an instrumentality
15 of the United States exempt under the constitution of the United States from
16 the contributions imposed by this chapter.

17 (5) In the employ of a governmental entity in the exercise of duties:

18 (a) As an elected official;

19 (b) As a member of a legislative body, or a member of the judiciary, of a
20 state or political subdivision thereof;

21 (c) As a member of the state national guard or air national guard;

22 (d) As an employee serving on a temporary basis in case of fire, storm,
23 snow, earthquake, flood, or similar emergency; or

24 (e) In a position which, pursuant to the laws of this state, is
25 designated as (i) a major nontenured policymaking or advisory position,
26 or (ii) a policymaking or advisory position which ordinarily does not
27 require more than eight (8) hours per week.

28 (6) By an inmate of a correctional, custodial or penal institution, if
29 such services are performed for or within such institution.

30 (7) In the employ of:

31 (a) A church or convention or association of churches; or

32 (b) An organization which is operated primarily for religious
33 purposes and which is operated, supervised, controlled, or principally
34 supported by a church, or convention or association of churches; or

35 (c) In the employ of an institution of higher education, if it is
36 devoted primarily to preparation of a student for the ministry or
37 training candidates to become members of a religious order; or

38 (d) By a duly ordained, commissioned, or licensed minister of a church
39 in the exercise of his ministry or by a member of a religious order in the
40 exercise of duties required by such order.

41 (8) By a program participant in a facility that provides rehabilitation
42 for individuals whose earning capacity is impaired by age, physical or
43 mental ~~deficiency~~ limitation, or injury or provides remunerative work for
44 individuals who, because of their impaired physical or mental capacity,
45 cannot be readily absorbed into the labor market.

46 (9) As part of an unemployment work relief program or as part of an
47 unemployment work training program assisted or financed in whole or in
48 part by any federal agency or an agency of a state or political subdivision
49 thereof, by an individual receiving such work relief or work training.

1 (10) Service with respect to which unemployment insurance is payable
2 under an unemployment insurance system established by an act of congress
3 other than the social security act.

4 (11) As a student nurse in the employ of a hospital or nurses' training
5 school by an individual who is enrolled and is regularly attending courses
6 in a nurses' training school approved pursuant to state law, and service
7 performed as an intern in the employ of a hospital by an individual who has
8 completed a course in a medical school approved pursuant to state law.

9 (12) By an individual under the age of eighteen (18) years of age
10 in the delivery or distribution of newspapers or shopping news not
11 including delivery or distribution to any point for subsequent delivery or
12 distribution.

13 (13) By an individual for a person as an insurance agent or as an
14 insurance solicitor, if all such service performed by such individual for
15 such person is performed for remuneration solely by way of commission.

16 (14) By an individual for a real estate broker as an associate real
17 estate broker or as a real estate salesman, if all such service performed by
18 such individual for such person is performed for remuneration solely by way
19 of commission.

20 (15) Service covered by an election approved by the agency charged with
21 the administration of any other state or federal unemployment insurance law,
22 in accordance with an arrangement pursuant to section 72-1344, Idaho Code.

23 (16) In the employ of a school or college by a student who is enrolled and
24 regularly attending classes at such school or college.

25 (17) In the employ of a hospital by a resident patient of such hospital.

26 (18) By a member of an AmeriCorps program.

27 (19) By an individual who is paid less than fifty dollars (\$50.00)
28 per calendar quarter for performing work that is not in the course of the
29 employer's trade or business, and who is not regularly employed by such
30 employer to perform such service. For the purposes of this subsection, an
31 individual shall be deemed to be regularly employed by an employer during a
32 calendar quarter only if:

33 (a) On each of some twenty-four (24) days during such quarter such
34 individual performs for such employer for some portion of the day
35 service not in the course of the employer's trade or business; or

36 (b) Such individual was so employed by such employer in the performance
37 of such service during the preceding calendar quarter.

38 (20) By an individual who is engaged in the trade or business of selling
39 or soliciting the sale of consumer products in a private home or a location
40 other than in a permanent retail establishment, provided the following
41 criteria are met:

42 (a) Substantially all the remuneration, whether or not received in
43 cash, for the performance of the services is directly related to sales
44 or other output, including the performance of services, rather than to
45 the number of hours worked; and

46 (b) The services performed by the individual are performed pursuant to
47 a written contract between the individual and the person for whom the
48 services are performed, and the contract provides that the individual
49 shall not be treated as an employee for federal and state tax purposes.

Such exemption applies solely to the individual's engagement in the trade or business of selling or soliciting the sale of consumer products in a private home or location other than in a permanent retail establishment.

SECTION 72. That Section 73-114, Idaho Code, be, and the same is hereby amended to read as follows:

73-114. STATUTORY TERMS DEFINED. (1) Unless otherwise defined for purposes of a specific statute:

(a) ~~W~~ords used in these compiled laws in the present tense, include the future as well as the present;

(b) ~~W~~ords used in the masculine gender, include the feminine and neuter;

(c) ~~T~~he singular number includes the plural and the plural the singular;

(d) ~~T~~he word "person" includes a corporation as well as a natural person;

(e) ~~W~~riting includes printing;

(f) ~~O~~ath includes affirmation or declaration, and every mode of oral statement, under oath or affirmation, is embraced by the term "testify," and every written one in the term "depose";

(g) ~~S~~ignature or subscription includes mark, when the person cannot write, his name being written near it, and witnessed by a person who writes his own name as a witness.

(2) The following words have, in the compiled laws, the signification attached to them in this section, unless otherwise apparent from the context:

(a) "Intellectual disability" means significantly subaverage general intellectual functioning that is accompanied by significant limitations in adaptive functioning in at least two (2) of the following skill areas: communication, self-care, home living, social or interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health and safety. The onset of significantly subaverage general intelligence functioning and significant limitations in adaptive functioning must occur before age eighteen (18) years.

(b) "Month" means a calendar month, unless otherwise expressed.

(c) "Personal property" includes money, goods, chattels, things in action, evidences of debt and general intangibles as defined in the uniform commercial code -- secured transactions.

~~1. (d) The word "Property" includes both real and personal property.~~

~~2. (e) The words "Real property" are is coextensive with lands, tenements and hereditaments, possessory rights and claims.~~

~~3. The words "personal property" include money, goods, chattels, things in action, evidences of debt and general intangibles as defined in the Uniform Commercial Code -- Secured Transactions.~~

~~4. The word "month" means a calendar month, unless otherwise expressed.~~

(f) "Registered mail" includes certified mail.

(g) "State," when applied to the different parts of the United States, includes the District of Columbia and the territories; and the words "United States" may include the District of Columbia and territories.

1 ~~5. (h) The word "Will" includes codicils.~~

2 ~~6. (i) The word "Writ" signifies an order or precept in writing, issued~~
 3 ~~in the name of the people, or of a court or judicial officer, and the~~
 4 ~~word "process," a writ or summons issued in the course of judicial~~
 5 ~~proceedings.~~

6 ~~7. The word "state," when applied to the different parts of the United~~
 7 ~~States, includes the District of Columbia and the territories, and the words~~
 8 ~~"United States" may include the District and territories.~~

9 ~~8. The words "registered mail" include certified mail.~~

10 SECTION 73. That Chapter 1, Title 73, Idaho Code, be, and the same is
 11 hereby amended by the addition thereto of a NEW SECTION, to be known and
 12 designated as Section 73-114A, Idaho Code, and to read as follows:

13 73-114A. LEGISLATIVE INTENT ON RESPECTFUL LANGUAGE. (1) It is the
 14 intent of the legislature that the Idaho Code be amended to remove certain
 15 archaic language related to the condition of individuals. Certain terms,
 16 such as "idiots," "handicap," "retarded," "lunatic" and "deficient,"
 17 when applied to individuals, have outlived their usefulness. The term
 18 "intellectual disability" as used in this act is intended to replace the term
 19 "mental retardation" as previously used in the Idaho Code.

20 (2) The legislature intends that the emphasis should be on people
 21 first, rather than on archaic labels. Therefore, any new or amended section
 22 of the Idaho Code should incorporate more modern and people first language
 23 when referring to the condition of individuals, as used in this act.

24 (3) The legislature further intends that rules promulgated under the
 25 administrative procedure act, chapter 52, title 67, Idaho Code, after the
 26 effective date of this act, should incorporate more modern and people first
 27 language when referring to the condition of individuals, as used in this act.
 28 Where appropriate and when the use of more modern and people first language
 29 will not substantively change the meaning of a rule, the rules coordinator
 30 is encouraged to use the authority provided for in section 67-5202(2),
 31 Idaho Code, to replace archaic language in the administrative code with more
 32 modern and people first language, as used in this act.

33 (4) This act's substitution of more modern and people first language
 34 in place of archaic language when referring to the condition of individuals
 35 shall not change the substantive interpretation of the amended Idaho Code
 36 sections or the case law interpreting those sections.